

REPLACEMENT EXPLANATORY STATEMENT

Road Vehicle Standards Amendment (2021 Measures No.1) Rules 2021

Approved by the Hon Barnaby Joyce MP, Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

Legislative authority

The *Road Vehicle Standards Act 2018* (the Act) and the *Road Vehicle Standards Rules 2019* (the Rules) provide a modern framework for the Commonwealth to regulate, among other matters, the importation and the first provision of road vehicles in Australia.

Section 82 of the Act empowers the Minister to, by legislative instrument, make rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Road Vehicle Standards Amendment (2021 Measures No. 1) Rules 2021* (the amending Rules) are made under the authority of the Act.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides, in part, that the power to amend rules is conferred by the same power to make those rules.

Purpose and operation of the instrument

Overview of the Act and Rules

The primary purpose of the Act is to regulate the importation and provision of road vehicles. The Rules set out matters that support the regulatory framework of the Act. Part 2 of the Rules provide for the keeping of a Register of Approved Vehicles (RAV), on which a road vehicle must be entered before it may be provided for the first time in Australia (section 24 of the Act). A vehicle may be entered on the RAV if it satisfies the requirements of an entry pathway (subsection 15(1) of the Act).

Subsection 19(2) of the Act states that the Rules may provide for or in relation to the grant of approvals to enable road vehicles to satisfy the requirements of the type approval pathway or other entry pathways.

There are currently two pathways available for vehicles to be entered on the RAV (Part 3 of the Rules):

- the type approval pathway, which applies to all vehicles of a particular type that fully or substantially comply with national road vehicle standards set out in the Act and are approved for volumetrically unrestricted supply to the Australian market (section 15 of the Rules), and
- the concessional RAV entry approval pathway, which applies to an individual vehicle if there is a concessional RAV entry approval in force for that vehicle, any conditions applying to the approval have been met, and (unless the approval otherwise provides) the vehicle is in Australia (section 31 of the Rules).

The Rules set out eligibility requirements for each pathway. The Rules also set out the mechanisms through which road vehicles may satisfy the requirements of RAV entry pathways. The Rules refer to these mechanisms as ‘tools’ in Part 4—approvals that enable road vehicles to satisfy requirements that enable a road vehicle to be provided for the first

time in Australia. The mechanisms relate to registered automotive workshops (RAWs) (Division 2), Model Reports (Division 3), authorised vehicle verifiers (AVVs) (Division 4), testing facilities (Division 5) and the Specialist and Enthusiast Vehicles Register (SEVs Register) (Division 6).

Part 5 of the Rules provides for the grant of approvals to permit the importation of road vehicles into Australia. Part 6 provides for the grant of approvals relating to road vehicle components intended for use in the manufacture or modification of certain road vehicles. Part 7 empowers the Minister and Secretary to vary, suspend or revoke approvals granted under the Rules. Part 8 provides for the recall of road vehicles and approved road vehicle components of particular kinds. Part 9 makes provision for a range of miscellaneous matters and Part 10 provides for the charging of fees.

Operation of the amending Rules

The amending Rules include amendments relating to:

- Importation approvals during the transitional period (Part 5 of the Rules)
- Cost recovery (Part 10 of the Rules)
- Model Reports (Division 3 of Part 4 of the Rules)
- AVVs (Division 4 of Part 4 of the Rules)
- the SEVs Register (Division 6 of Part 4 of the Rules), and
- miscellaneous matters.

The amending Rules are compatible with human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment A](#).

A section by section explanation of the amending Rules is at [Attachment B](#), which provides further details on the operation of the instrument.

Purpose

Amendments relating to importation approvals during the transitional period

The purpose of these amendments is to provide for an additional type of import approval: a transitional import approval (available temporarily for certain vehicles following the repeal of the *Motor Vehicle Standards Act 1989* (the MVSA)). The overarching intention of the transitional period is to provide a period of overlap between the MVSA and the Act to facilitate a smoother transition for industry.

For example, under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* (Transitional Act), a RAW can import unlimited volumes of two-wheeled and three-wheeled vehicles during the transitional period under a reg 16 import approval under the *Motor Vehicle Standards Regulations 1989* (the MVSR). The current transitional arrangements require that a RAW, in advance of the commencement of the transitional period, identify all vehicles intended to be imported during that year and apply for reg 16 import approvals. This is not a practicable implementation of the commitment that RAWs will continue to operate under their MVSA approvals through the transitional period.

The amending Rules will allow applications for transitional import approvals to be made up to 10 months after the start of the transitional period. This will ensure that RAWs businesses can continue to operate during the transitional period, and the Department of Infrastructure,

Transport, Regional Development and Communications (the Department) has sufficient time to make a decision on these applications.

Amendments relating to cost recovery

The purpose of the amendments relating to cost recovery (set out in Part 2 of Schedule 1 to this instrument) is to support cost-recovery arrangements imposed by the *Road Vehicle Standards Charges (Imposition—Excise) Act 2018*, the *Road Vehicle Standards Charges (Imposition—General) Act 2018* and the *Road Vehicle Standards Charges (Imposition—Customs) Act 2018* (the Charging Acts), and corresponding regulations.

Each entry of a vehicle on the RAV through the type approval pathway will incur a charge. Charges imposed as fees are set out in the amending Rules. The Charging Acts allow for the imposition of cost-recovery charges, imposed as taxes, in relation to vehicles entered on the RAV through the type approval pathway, for the administration and enforcement of the Act as set out in the Cost Recovery Implementation Statement (CRIS), which is available free of charge to the public on the Department's website (<https://www.infrastructure.gov.au/vehicles>).

Amendments relating to Model Reports

The purpose of the amendments relating to Model Reports is to ensure that Model Reports result in vehicles that comply with the national road vehicle standards and to enable the determination made under subsection 89(2) to set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards. In addition, changes to section 72 of the Rules are necessary to more clearly set out which standards certain classes of vehicle must comply with.

Amendments relating to AVVs

The purpose of the amendments relating to AVVs is to clarify that the damage or corrosion limit also applies to any repairs of damage or corrosion to vehicles being verified. Changes have also been made to ensure the terminology 'inspect' and 'verify' is used consistently in the Rules. This is intended to reflect that the verification of a road vehicle undertaken by a holder of an AVV approval is broader than the physical inspection of the vehicle. It includes, but is not limited to, verifying documents and other material. The determination power in section 106 of the Rules is also being refined to more closely align with the policy intention, and the requirement to keep records is being strengthened.

Amendments relating to the SEVs Register

The purpose of the amendments relating to the SEVs Register is to reduce regulatory burden by allowing applicants to apply for the entry of a make and model of a road vehicle onto the SEVs Register where all variants of the make and model meet the eligibility criteria. Previously, this was only available for the rarity criterion; applications for the other five criterion could only be made for a variant of a model of a road vehicle. The determination power in section 136 of the Rules is also being refined to more closely align with the policy intention.

Amendments relating to miscellaneous matters

The purpose of the amendments relating to miscellaneous matters is to correct minor errors in drafting and expression of policy intent.

Consultation

The Department established the RVSA Implementation Consultation Framework to facilitate targeted consultation with stakeholders, including some State roads authorities, major vehicle manufacturers/importers and road vehicle industry associations between 2018 and 2020, including during RVSA service design phases. Meeting papers of stakeholder consultation are available free of charge to the public on the Department's website (https://www.infrastructure.gov.au/vehicles/rvs/rvsa_implementation_consultation_framework.aspx).

Consultation with industry stakeholders on the amendments relating to importation approvals during the transitional period occurred in November 2020.

Consultation with the public, including key stakeholders, on the cost recovery changes were conducted through the CRIS process in two stages (in late 2017 and from December 2019 to February 2020). The invitation for comment on the draft CRIS was available on the Department's website and emailed to key stakeholders.

Consultation on the policy direction of the principal amendments relating to Model Reports, AVVs and the SEVs Register occurred through the exposure-draft process on the related determinations (from December 2020 to February 2021). Other amendments (such as the amendments relating to miscellaneous matters) are minor in nature, as explained above.

Documents incorporated by reference

Paragraph 15J(2)(c) of the *Legislation Act 2003* provides that if any documents are incorporated in an instrument (such as the amending Rules) by reference, the Explanatory Statement for that instrument must contain a description of the incorporated documents and indicate how they may be obtained. The following information is for the purposes of paragraph 15J(2)(c).

The amending Rules incorporate various definitions from the *Motor Vehicle Standards Act 1989* and the *Motor Vehicle Standards Regulations 1989*. These laws are available to the public free of charge on the Federal Register of Legislation website (<http://www.legislation.gov.au>).

The amending Rules also incorporate a publication published by the Department this is known as *Vehicle Standards Bulletin 1 (Revision 5, June 2009)—National Code of Practice—Building Small Trailers*. This publication provides information about design and construction standards for road trailers (with an aggregate trailer mass of 4.5 tonnes or less). This publication is available to the public free of charge on the Department's website (<http://www.infrastructure.gov.au>).

The amending Rules also incorporate the National Code of Practice Heavy Vehicle Modifications (the National Code, also commonly known as Vehicle Standards Bulletin 6). The National Code is published by the Australian Motor Vehicle Certification Board, which includes representatives from the Australian Government, state and territory governments, and the National Heavy Vehicle Regulator. It sets out minimum national requirements for modifications to vehicles with a gross vehicle mass greater than 4.5 tonnes and trailers with an aggregate trailer mass greater than 4.5 tonnes, to ensure that these modified vehicles are safe and comply with the relevant standards. It also provides for Approved Vehicle Examiners to certify certain modifications to these vehicles. The National Code is a document available to the public free of charge on the National Heavy Vehicle Regulator's website (<http://www.nhvr.gov.au>).

Regulation Impact Statement

A Regulation Impact Statement (RIS) was prepared in relation to the MVSA and policy options for its repeal and replacement with what would become the Act. The RIS is included in the Explanatory Memorandum to the Road Vehicle Standards Bill 2018. The Office of Best Practice Regulation (OBPR) reference number for the RIS is 17240. OBPR has advised that no further RIS is required.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Road Vehicle Standards Amendment (2021 Measures No.1) Rules 2021

This disallowable legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulations

The *Road Vehicle Standards Amendment (2021 Measures No.1) Rules 2021* (the amending Rules) are made under section 82 of the *Road Vehicle Standards Act 2018* (the Act).

The amending Rules include amendments relating to:

- Importation approvals during the transitional period (Part 5 of the Rules)
- Cost recovery (Part 10 of the Rules)
- Model Reports (Division 3 of Part 4 of the Rules)
- AVVs (Division 4 of Part 4 of the Rules)
- the SEVs Register (Division 6 of Part 4 of the Rules), and
- miscellaneous matters.

Amendments relating to importation approvals during the transitional period

The purpose of these amendments is to provide for an additional type of import approval: a transitional import approval (available temporarily for certain vehicles following the repeal of the *Motor Vehicle Standards Act 1989* (the MVSA)). The overarching intention of the transitional period is to provide a period of overlap between the MVSA and the Act to facilitate a smoother transition for industry.

For example, under the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* (Transitional Act), a RAW can import unlimited volumes of two-wheeled and three-wheeled vehicles during the transitional period under a reg 16 import approval under the *Motor Vehicle Standards Regulations 1989* (the MVSR). The current transitional arrangements require that a RAW, in advance of the commencement of the transitional period, identify all vehicles intended to be imported during that year and apply for reg 16 import approvals. This is not a practicable implementation of the commitment that RAWs will continue to operate under their MVSA approvals through the transitional period.

The amending Rules will allow applications for transitional import approvals to be made up to 10 months after the start of the transitional period. This will ensure that RAWs businesses can continue to operate during the transitional period, and the Department of Infrastructure, Transport, Regional Development and Communications (the Department) has sufficient time to make a decision on these applications.

Amendments relating to cost recovery

The purpose of the amendments relating to cost recovery (set out in Part 2 of Schedule 1 to this instrument) is to support cost-recovery arrangements imposed by the *Road Vehicle*

Standards Charges (Imposition—Excise) Act 2018, the Road Vehicle Standards Charges (Imposition—General) Act 2018 and the Road Vehicle Standards Charges (Imposition—Customs) Act 2018 (the Charging Acts), and corresponding regulations.

Each entry of a vehicle on the RAV through the type approval pathway will incur a charge. Charges imposed as fees are set out in the amending Rules. The Charging Acts allow for the imposition of cost-recovery charges, imposed as taxes, in relation to vehicles entered on the RAV through the type approval pathway, for the administration and enforcement of the Act as set out in the Cost Recovery Implementation Statement (CRIS), which is available free of charge to the public on the Department’s website (<https://www.infrastructure.gov.au/vehicles>).

Amendments relating to Model Reports

The purpose of the amendments relating to Model Reports is to ensure that Model Reports result in vehicles that comply with the national road vehicle standards and to enable the determination made under subsection 89(2) to set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards. In addition, changes to section 72 of the Rules are necessary to more clearly set out which standards certain classes of vehicle must comply with.

Amendments relating to AVVs

The purpose of the amendments relating to AVVs is to clarify that the damage or corrosion limit also applies to any repairs of damage or corrosion to vehicles being verified. Changes have also been made to ensure the terminology ‘inspect’ and ‘verify’ is used consistently in the Rules. This is intended to reflect that the verification of a road vehicle undertaken by a holder of an AVV approval is broader than the physical inspection of the vehicle. It includes, but is not limited to, verifying documents and other material. The determination power in section 106 of the Rules is also being refined to more closely align with the policy intention, and the requirement to keep records is being strengthened.

Amendments relating to the SEVs Register

The purpose of the amendments relating to the SEVs Register is to broaden the eligibility criteria for entry of a make and model of a vehicle (to be no longer restricted to applications under the rarity criterion), and to streamline provisions regarding the entry on the SEVs Register of one or more variants of a model, or a make and model, of a road vehicle. The determination power in section 136 of the Rules is also being refined to more closely align with the policy intention.

Amendments relating to miscellaneous matters

The purpose of the amendments relating to miscellaneous matters is to correct minor errors in drafting and expression of policy intent.

Human rights implications

The instrument supports the regulatory framework of the *Road Vehicle Standards Act 2018* and the *Road Vehicle Standards Rules 2019* to ensure that vehicles on public roads meet safety and environmental standards to support the human right to life and health. The instrument does not engage any human rights beyond those addressed in the Explanatory Memorandum to the Road Vehicle Standards Bill 2018 and the Explanatory Statement for the *Road Vehicle Standards Rules 2019*.

Conclusion

The instrument is compatible with human rights because it promotes the protection of human rights and, to the extent that it may limit human rights, those limitations are considered to be reasonable, necessary and proportionate.

**The Hon Barnaby Joyce MP
Deputy Prime Minister and Minister for Infrastructure, Transport,
Regional Development and Communications**

Section-by-section explanation

Section 1: Name

1. Section 1 provides that the name of the instrument is the *Road Vehicle Standards Amendment (2021 Measures No. 1) Rules 2021* (the amending Rules).

Section 2: Commencement

2. Subsection 2(1) provides that each provision of the instrument specified in column 1 of the table commences in accordance with column 2 of the table. The following provisions commence the day after the instrument is registered: sections 1 to 4, and Parts 1 and 3 to 7 of Schedule 1. Part 2 of Schedule 1 commences on a day or days to be fixed by the Minister by notifiable instrument. However, if any of the provisions of Part 2 of Schedule 1 do not commence before 1 April 2021, they commence on that day.
3. The note following the table provides that the table relates only to the provisions of this instrument as originally made.
4. Subsection 2(2) provides that any information in column 3 of the table is not part of the instrument.

Section 3: Authority

5. Section 3 provides that the instrument is made under the *Road Vehicle Standards Act 2018* (the Act).
6. Section 82 of the Act empowers the Minister to, by legislative instrument, make rules prescribing matters that are required or permitted by the Act to be prescribed by rules, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.
7. Subsection 33(3) of the *Acts Interpretation Act 1901* provides, in summary, that the power to amend rules is conferred by the same power to make those rules. The amending Rules amend the *Road Vehicle Standards Rules 2019* (the Rules).

Section 4: Schedules

8. Section 4 provides that each instrument that is specified in a Schedule is amended or repealed as set out in the applicable items of the Schedule. Any other item in a Schedule has effect according to its terms.

Schedule 1—Amendments

Part 1—Importation approvals during the transitional period

Item 1—Section 4

9. This item amends the simplified outline in section 4 of the Rules as it relates to Part 5 of the Rules. This is necessary as Part 5 provides for a third further type of import approval: transitional import approvals (which are available temporarily for certain vehicles following the repeal of the *Motor Vehicle Standards Act 1989* (MVSA)). The new outline of further types of import approval lists non-RAV entry import approvals, transitional import approvals and reimportation import approvals, and provides a short description of each type of approval.

Item 2—Section 5

10. Section 5 sets out definitions for the Rules. This item inserts two definitions found in the MSVA: ‘identification plate’ and ‘used import plate’. This ensures consistency of terminology across the range of instruments supporting the Act.
11. This item also inserts definitions of various types of import approval that can be granted under Part 5 of the Rules. These definitions appear in amendments made to the Rules by item 4 of the amending Rules.
12. A ‘transitional import approval’ means ‘a RAW (used vehicle) import approval’, or a ‘RAW (unrestricted volume used two or three-wheeled vehicle) import approval’, or ‘a trailer (aggregate trailer mass of 4.5 tonnes or less) import approval’. A ‘RAW (unrestricted volume used two or three-wheeled vehicle) import approval’ is granted under section 146F of the Rules. A ‘RAW (used vehicle) import approval’ is granted under section 146E of the Rules. A ‘trailer (aggregate trailer mass of 4.5 tonnes or less) import approval’ is granted under section 146G of the Rules. Sections 146E to 146G of the Rules are inserted into the Rules by item 4 of the amending Rules.

Item 3—Section 144

13. This item amends the simplified outline in section 144 of the Rules, which relates to import approvals granted under Part 5 of the Rules. This is necessary as the new Division 2A of Part 5 provides for the grant of temporary transitional import approvals during the transitional period following the repeal of the MSVA. The item also clarifies that most types of import approval are automatically subject to conditions that permit the Minister or an inspector to inspect the vehicle and seek information, in addition to any further conditions specified in the particular approval.

Item 4—After Division 2 of Part 5

14. This item inserts a new Division 2A into Part 5 of the Rules. Division 2A contains new sections (sections 146A to 146N) setting out arrangements for transitional import approvals.
15. Subdivision A of Division 2A contains section 146A of the Rules. The new section 146A of the Rules sets out new definitions in relation to import approvals during the transitional period. This ensures consistency of terminology across the range of instruments supporting the Act.
16. Subsection 146A(1) sets out five definitions. ‘RAW’ is defined as the holder of an approval granted under section 21B of the MVSA that remains in force by virtue of the *Road Vehicle Standards (Consequential and Transitional Provisions) Act 2018* (Transitional Act).
17. The new subsection 146A(1) note provides that Part 5 of Schedule 3 to the Transitional Act continues section 21B MVSA approvals in force during the 12 month transitional period.
18. The definitions of ‘restricted volume two-wheeled or three-wheeled vehicle’, ‘schedule of approved vehicles’, ‘unrestricted volume two-wheeled or three wheeled vehicle’ reference the definitions of those terms in the *Motor Vehicle Standards Regulations 1989* (MVS Regulations).
19. The definition of ‘Vehicle Standards Bulletin 1’ provides that the Bulletin is a publication of the Department, known as ‘Vehicle Standards Bulletin 1 (Revision 5, June 2009)–National Code of Practice–Building Small Trailers’.

20. The new subsection 146A(2) clarifies that the terms ‘make’, ‘model’, ‘new vehicle’, ‘nonstandard’ and ‘road trailer’, used in Division 2A of Part 5, retain the same definitions given in the MVSA.
21. Subdivision B of Division 2A contains new sections 146B to 146L of the Rules, which deal with an application for, and the grant of, transitional import approvals.
22. Section 146B of the Rules deals with an application for approval. The new subsection 146B(1) of the Rules provides that a person may apply to the Minister for a transitional import approval as set out in the table in that subsection. A RAW may apply for a RAW (used vehicle) import approval in respect of a road vehicle that is not a new vehicle. A RAW may also apply for a RAW (unrestricted volume used two or three-wheeled vehicle) import approval in respect of one or more two-wheeled or three-wheeled vehicles that are not new vehicles. A person may apply for a trailer (aggregate trailer mass of 4.5 tonnes or less) import approval in respect of one or more road vehicles that are both: nonstandard road vehicles or road vehicles that do not have an identification plate, and road trailers with an aggregate trailer mass of 4.5 tonnes or less.
23. The new subsection 146B(2) of the Rules provides that an application for a transitional import approval under subsection 146B(1) cannot be made more than 10 months after the commencement of section 15 of the Act.
24. The new subsection 146B(3) of the Rules provides that an application must be in the approved form, and must be accompanied by documents that are required by the form (subparagraph 146B(3)(b)(i)) and the application fee (subparagraph 146B(3)(b)(ii)).
25. The new section 146B note explains that the Minister must refuse to consider an application that is made out of time under subsection 146B(2), and may refuse to consider an application if it does not comply with subsection 146B(3) (this is discussed further below in relation to section 146D).
26. The new subsection 146C(1) of the Rules provides that the Minister may request further specified information from an applicant when deciding whether to grant a transitional import approval.
27. Subsection 146C(2) of the Rules provides that the Minister’s request must be in writing, and must state that that the Minister may refuse to consider the application if the applicant does not comply with the request with a 30 day period starting on the day the request is made, or within the longer period allowed by the Minister.
28. The new subsection 146D(1) of the Rules provides that the Minister may refuse to consider a transitional import application if it does not comply with subsection 146B(3), or if the applicant does not comply with a request made under subsection 146C(1) within the period mentioned in paragraph 146C(2)(b). Paragraph 146C(2)(b) mentions a 30 day period starting on the day the request is made, or the longer period allowed by the Minister.
29. The new subsection 146D(1) note mentions that subsection 146B(3) of the Rules requires, among other things, that the application be in the approved form, and be accompanied by the application fee.
30. Subsection 146D(2) of the Rules provides that the Minister must refuse to consider an application if made outside the date mentioned in subsection 146B(2) – that is, more than 10 months after the commencement of section 15 of the Act.

31. As set out in paragraph 230(va) of the Rules, an application can be made to the Administrative Appeals Tribunal (AAT) for review of a decision under section 146D of the Rules to refuse to consider an application for a transitional import approval.
32. The new section 146E of the Rules provides the criteria for the Minister's decision to grant a RAW (used vehicle) import approval for a road vehicle.
33. Paragraph 146E(1)(a) provides that an import approval may be granted for a road vehicle if the vehicle is not a new vehicle. Paragraph 146E(1)(b) refers to a road vehicle that was originally manufactured after 31 December 1988. Paragraph 146E(1)(c) provides that an import approval may be granted for a road vehicle if the make and model of the vehicle is included in the schedule of approved vehicles for the RAW. Paragraph 146E(1)(d) provides that the application for the import approval is accompanied by an application under section 13C of the MVSA for approval to place a used import plate on the vehicle. Paragraph 146E(1)(e) applies to a vehicle other than a two-wheeled or three-wheeled vehicle, and provides that in the period of 12 months immediately preceding the application, the RAW has not been granted approval to import more than a total of 130 vehicles in the vehicle category to which the vehicle belongs under section 146E of the Rules, or section 15 of the MVSA, or both (considered together). Paragraph 146E(1)(e) applies to a restricted volume two-wheeled or three-wheeled vehicle, and provides that in the period of 12 months immediately preceding the application, the RAW has not been granted approval to import more than a total of 130 vehicles in the vehicle category to which the vehicle belongs under section 146E of the Rules, or section 15 of the MSVA, or both (considered together).
34. The new subsection 146E(1) note relates to paragraph 146E(1)(d) and clarifies that a used import plate permits a used imported vehicle to be supplied to the market for the purposes of subsection 16(1) of the MVSA. It also clarifies that applications under section 13C of the MVSA can be made and granted during the transitional period (which is provided for in Division 2 of Part 3 of Schedule 3 to the Transitional Act. The Act and the Rules do not apply, during the transitional period, to the provision of used imported vehicles that have had used import plates placed on them in accordance with an approval.
35. The new subsection 146E(2) of the Rules provides that section 146E of the Rules, which provides the criteria for granting a RAW (used vehicle) import approval to a RAW for a road vehicle, does not apply to an unrestricted volume two-wheeled or three-wheeled vehicle.
36. As set out in paragraph 230(vb) of the Rules, an application can be made to the AAT for review of a decision under section 146E of the Rules to refuse to grant a transitional import approval that is a RAW (used vehicle) import approval.
37. The new section 146F of the Rules provides that the Minister may grant a RAW (unrestricted volume used two or three-wheeled vehicle) import approval for one or more road vehicles that are not new vehicles if each vehicle specified in the application is an unrestricted volume two-wheeled or three-wheeled vehicle of a make and model included in the applicant's schedule of approved vehicles, and was first manufactured after 31 December 1988.
38. As set out in paragraph 230(vb) of the Rules, an application can be made the AAT for review of a decision under section 146F of the Rules to refuse to grant a transitional import approval that is a RAW (unrestricted volume used two or three-wheeled vehicle) import approval.
39. The new section 146G of the Rules sets out matters that must be satisfied for each nonstandard road vehicle, or road vehicle that does not have an identification plate, specified in an application for a trailer (aggregate trailer mass of 4.5 tonnes or less) import approval. The

Minister may grant an application for a trailer (aggregate trailer mass of 4.5 tonnes or less) import approval if these matters are satisfied for each vehicle specified in the application. The matters are:

- the road vehicle is a road trailer with an aggregate trailer mass of 4.5 tonnes or less (paragraph 146G(a))
 - the person provides to the Minister a written statement from the original manufacturer of the trailer stating that, at the time of manufacture, the aggregate trailer mass of the trailer was 4.5 tonnes or less (paragraph 146G(b))
 - the Minister is satisfied that the trailer is capable of being modified to comply with the requirements set out in Vehicle Standards Bulletin 1.
40. As set out in paragraph 230(vb) of the Rules, an application can be made to the AAT for review of a decision under section 146G of the Rules to refuse to grant a transitional import approval that is a trailer (aggregate trailer mass of 4.5 tonnes or less) import approval.
 41. The new subsection 146H of the Rules provides that if a person holds a transitional import approval in force for one or more road vehicles: the person is taken to be the holder of an import approval within the meaning of section 22(2)(c) of the Act, that import approval is taken to be in force, and each such road vehicle is taken to be specified in that import approval.
 42. The new section 146H note 1 clarifies the relationship between a transitional import approval and section 22 of the Act, which sets out the circumstances that allow a person to import a road vehicle. Note 1 provides that it is an offence to import a road vehicle into Australia without approval at the time of the importation, and refers to subsection 22(1) of the Act. However, under paragraph 22(2)(c) of the Act, importation of a road vehicle is permitted if, at the time of the importation, a person holds an import approval, the approval is in force, and the road vehicle is specified in the approval.
 43. The new section 146H note 2 clarifies that a transitional import approval does not permit a road vehicle to be provided for the first time in Australia under section 24 of the Act, which prohibits the provision of a road vehicle in Australia unless the vehicle is on the RAV or where an exception applies.
 44. The new section 146J of the Rules deals with the timeframe for deciding an application for a transitional import approval.
 45. The new subsection 146J(1) of the Rules provides that a decision on a transitional import approval application must be made by the Minister within 30 business days after receiving the application.
 46. New subsection 146J(2) of the Rules provides that, for the purposes of subsection 146J(1), the ‘clock’ measuring 30 business days will not count a day as a business day if that day is on or after the date when the Minister makes a request for further information under subsection 146C(1) of the Rules, and on or before the day the applicant provides the last of the information requested.
 47. New subsection 146J(3) of the Rules provides that the Minister must not decide an application for a transitional import approval more than 11 months after the commencement of section 15 of the Act. This will allow vehicles to be imported and supplied one month before the end of the 12 month transitional period.

48. New section 146K of the Rules deals with notice requirements for the grant of a transitional import approval. New subsection 146K(1) provides that the Minister must, as soon as practicable, notify a person, in writing, of that person's successful transitional import approval application, and provide a copy of the approval to that person.
49. New subsection 146K(2) of the Rules lists the things that a transitional import approval must specify, including the details of each road vehicle to which the approval applies (paragraph 146K(2)(b)), the approval expiry date if the approval is for a specified period (paragraph 146K(2)(d)), and any conditions to which the approval is subject (paragraph 146K(2)(e)).
50. As set out in paragraph 230(vc) of the Rules, an application can be made to the AAT for review of a decision under paragraph 146K(2)(e) of the Rules to impose a condition on a transitional import approval.
51. For a refusal to grant a transitional import approval, new section 146L of the Rules provides that the Minister must, as soon as practicable, notify a person with reasons for refusing to grant the approval and provide reasons for the decision.
52. Subdivision C of Division 2A contains new sections 146M and 146N of the Rules, which deal with conditions applying to transitional import approvals.
53. New section 146M of the Rules lists conditions to which a transitional import approval is subject. These conditions include allowing the Minister or an inspector to inspect vehicles covered by the approval.
54. The new section 146M note provides that the criminal or civil penalty provisions under sections 28 and 29 of the Act may apply if the holder of an approval breaches a condition of the approval.
55. New section 146N of the Rules sets out another condition to which a transitional import approval is subject. The condition is that the holder of the approval must respond in writing within such reasonable specified time to a request from the Minister or an inspector for information or documents:
 - that are reasonably required, for the purposes of assessing compliance with the Act, the Rules, or instruments made under the Act or Rules, or the MSVA or MVS Regulations to the extent they continue to apply by virtue of the Transitional Act; or
 - that are about the road vehicle or vehicles to which the approval applies.
56. Under this condition, the holder of the approval must also provide written answers to questions, specified in the request, about the road vehicle or vehicles to which the approval applies.

Item 5—Subparagraph 170(a)(ii)

57. This item inserts the words 'or a transitional import approval' into subparagraph 170(a)(ii) of the Rules after the words 'non-RAV entry import approval'. Section 170 allows the Secretary to assign a Vehicle Identification Number (VIN) for a road vehicle. This amendment means that the Secretary may allocate a VIN for a road vehicle if the Minister grants a non-RAV entry import approval for the vehicle (subparagraph 170(a)(ii)), and the vehicle does not have a VIN.

Item 6—After paragraph 230(v)

58. This item expands the decisions that are reviewable by the AAT in section 230 of the Rules to include decisions relating to transitional import approvals referred to in new paragraphs 230(va), (vb) and (vc). These decisions are decisions to refuse to consider an application for an approval, decisions to refuse to grant an approval, and decisions to impose a condition on an approval, respectively. This is in line with the decisions referred to in the provisions covering transitional import approvals in the new Division 2A of Part 5 of the Rules, discussed above.

Part 2—Main amendments relating to cost recovery

Item 7—Subsection 2(1) (table item 15)

59. The table in subsection 2(1) of the Rules deals with when provisions of the Rules commence. This item replaces the reference to section 253 with a reference to section 255 in item 15 of the table. The amendment made by item 7 will mean that sections 254 and 255 will commence by notifiable instrument, or on 1 July 2021. This reflects the new cost recovery provisions set out in the new Division 15 of Part 10 of the Rules, inserted into the Rules by item 23 of the amending Rules.

Item 8—At the end of section 4

60. Section 4 of the Rules provides a simplified outline of the Rules. This item inserts a new simplified outline of Part 10 of the Rules into section 4 of the Rules. As stated in the outline, Part 10 provides for the charging of fees and payment of cost-recovery charges.

Item 9—At the end of section 8

61. This item inserts a new section 8 note. It provides that the date of entry of a vehicle on the RAV may not be able to be entered until an outstanding cost recovery charge is paid, and refers to section 12A of the Rules. Section 8 of the Rules sets out information to be included on the RAV, and section 12A is a new section that is added to the Rules by item 10 of the amending Rules.

Item 10—At the end of Division 2 of Part 2

62. This item inserts new section 12A into the Rules, which provides for a restriction on entering vehicles on the RAV before cost-recovery charges are paid.
63. Paragraph 12A(1)(a) of the Rules sets out when the restriction applies to a vehicle. Section 12A applies to a vehicle that satisfies the requirements of the type approval pathway if the charge mentioned in subsection 254(1) of the Rules has not been paid or wholly remitted (paragraph 12A(1)(a)(i)), and an invoice specifying the due date for the charge has not been issued to the person liable to pay the charge (paragraph 12A(1)(a)(ii)), and the Secretary has not entered into a written agreement with the person that the invoice may be issued after the vehicle is entered on the RAV (paragraph 12A(1)(a)(iii)).
64. Section 12A applies to a vehicle that satisfies the requirements of the concessional RAV entry approval pathway if the cost-recovery charge mentioned in subsection 254(2) of the Rules in relation to the entry of the vehicle on the RAV has not been paid or wholly remitted (paragraph 12A(1)(b)).
65. The new subsection 12A(1) note clarifies that the Secretary can remit the whole or part of a cost-recovery charge under section 72 the Act. Under subsection 72(1) of the Act, the Secretary may remit a cost-recovery charge that is payable to the Commonwealth if the Secretary is

satisfied that there are circumstances that justify doing so. Under subsection 72(2) of the Act, the Secretary may do so on his or her own initiative or on written application by a person.

66. The new subsection 12A(2) of the Rules prohibits the Secretary from entering the date of entry of the vehicle on the RAV if section 12A applies to the vehicle, as set out in subsection 12A(1) of the Rules.
67. The new paragraph 12A(2) note 1 clarifies that a vehicle is not entered on the RAV if the date of entry is not included, and refers to paragraph 8(a) of the Rules. Section 8 of the Rules deals with information to be included on the RAV in relation to a vehicle, and paragraph 8(a) refers to the date of entry on the RAV.
68. The new paragraph 12A(2) note 2 clarifies that, under section 72 of the Act, the Secretary may remit the whole or part of a cost- recovery charge if he or she is satisfied this is justified.

Item 11—At the end of paragraph 32(2)(b)

69. This item inserts a new paragraph 32(2)(b)(iii) into the Rules, which provides that an application to the Minister for a grant of a concessional RAV entry approval for a road vehicle, other than a road vehicle to be modified by the holder of a RAW approval, must be accompanied by the charge set out in subsection 254(2) of the Rules in relation to the entry of the vehicle on the RAV.

Item 12—Section 61

70. This item replaces section 61 of the Rules, which deals with the period of a RAW approval. The new subsection 61(1) provides that, subject to the new subsection 61(2), a RAW approval will commence on the day specified in the approval, and will remain in force for a period of 5 years, unless revoked earlier.
71. The new subsection 61(2) of the Rules provides that a RAW approval will not come into force until after payment of any outstanding charge set out in item 2 of the table in subsection 254(1) of the Rules for the first 12 months for which the approval is expected to be in force.
72. The example following the new subsection 61(2) provides that the approval might specify that it comes into force on the later of a specified day or the day the charge is paid.

Item 13—Paragraph 62(2)(c)

73. This item replaces ‘it is granted’ with ‘it comes into force’ in the notice requirements for grant of a RAW approval in paragraph 62(2)(c) of the Rules. The result of this amendment is that the RAW approval must specify that the approval expires at the end of the period of 5 years after it comes into force, unless it is revoked earlier.

Item 14—Section 96

74. This item replaces section 96 of the Rules, which deals with the period of an AVV approval. Subsection 96(1) provides that, subject to the new subsection 96(2), an AVV approval will come into force on the day specified in the approval, and remain in force for a period of 5 years unless revoked earlier.
75. The new subsection 96(2) of the Rules provides that an AVV approval must not come into force until payment of any outstanding charge set out in item 2 of the table in subsection 254(1) of the Rules for the first 12 months for which the approval is expected to be in force.

76. The example following the new subsection 96(2) of the Rules provides that the AVV approval might specify that it comes into force on the later of a specified day or the day the charge is paid.

Item 15—Section 114

77. This item replaces section 114 of the Rules, which deals with the period of a testing facility approval. Subsection 114(1) provides that, subject to the new subsection 114(2), a testing facility approval will commence on the day specified in the approval, and will remain in force for a period of 5 years unless revoked earlier.

78. The new subsection 114(2) of the Rules provides that a testing facility approval will not come into force until after payment of any outstanding charge set out in item 2 of the table in subsection 254(1) of the Rules for the first 12 months for which the approval is expected to be in force.

79. The example following the new subsection 114(2) of the Rules provides that the testing facility approval might specify that it comes into force on the later of a specified day or the day the charge is paid.

80. The new subsection 114(3) of the Rules provides that subsection 114(2) only applies to applications made on or after 1 July 2021.

Item 16—Section 190

81. This item replaces ‘section 19 and 23’ with ‘sections 19, 23 and 70’ in section 190 of the Rules. Section 190 sets out the purpose of Division 1 of Part 7 of the Rules. The amendment to section 190 will mean that the purpose of Part 7 of the Rules is to provide for and in relation to the variation, suspension or revocation of approvals granted under the Rules, and will do so for the purposes of sections 19, 23 and 70 of the Act. Paragraph 19(2)(c) of the Act sets out that the Rules may provide for the variation, suspension or revocation of approvals to enable vehicles to satisfy the requirements of the type approval pathway, or to enable road vehicles to satisfy the requirements of other entry pathways, or relating to road vehicle components. Section 23 of the Act sets out that the Rules may provide for the variation, suspension or revocation of approvals in relation to the importation of road vehicles. Subsection 70(1) of the Act sets out that the Rules may provide for the variation, suspension or revocation of approvals granted under the Act because of unpaid cost-recovery charges. Under subsection 70(2) of the Act, the Rules can provide for or in relation to other circumstances in which these approvals granted under the Act can be suspended or revoked.

Item 17—Subsection 192(3)

82. This item replaces subsection 192(3) of the Rules. Section 192 deals with considerations in deciding whether to vary, suspend or revoke an approval. Paragraph 192(3)(a) empowers the Minister or Secretary to suspend or revoke an approval under Division 2 of Part 7 of the rules if, in any case, he or she ceases to be satisfied of the matters based on which the approval was granted. An example of where this power may be exercised is where an approval was granted and it is later determined that the information supplied in the application for the approval was false or misleading information. The new paragraph 192(3)(b) empowers the Minister or Secretary to suspend or revoke a RAW, AVV or testing facility approval if a cost-recovery charge in relation to the granting and ongoing operation of the approval has not been paid.

83. Subsection 192(3) of the Rules is expressed not to limit section 191. Section 191 of the Rules contains provisions that relate to the power of the Minister or Secretary to vary, suspend or revoke an approval.
84. As set out in paragraph 230(zf) of the Rules, an application can be made to the AAT for review of a decision to suspend or revoke an approval under Division 2 of Part 7 of Rules on the Minister's or Secretary's own initiative.
85. The new subsection 192(3) note provides that cost recovery charges in relation to the granting and ongoing operation of an approval are set out in subsection 254(1) of the Rules.

Item 18—Sections 237 and 238

86. This item replaces sections 237 and 238 of the Rules with new provisions, which provide a simplified outline of Part 10 of the Rules and the purposes of that Part, respectively. Part 10 of the Rules deals with cost recovery.
87. The new section 237 of the Rules sets out a simplified outline of cost recovery in Part 10 of the Rules. As set out in new paragraph 237(a), Part 10 provides for the charging of fees in respect of fee-bearing activities. As set out in new paragraph 237(b), Part 10 also provides for the payment of cost-recovery charges in relation to the administration of the Act. These charges are imposed by the *Road Vehicle Standards Charges (Imposition—Customs) Act 2018*, the *Road Vehicle Standards Charges (Imposition—Excise) Act 2018* and the *Road Vehicle Standards Charges (Imposition—General) Act 2018* (together, Charging Acts). There are three separate Charging Acts for excise, customs and general charges in alignment with section 55 of the Constitution.
88. For the purposes of Division 4 of Part 5 of the Act, the new section 238 sets out the purpose of Part 10 of the Rules, being to provide for the charging of fees, and the payment of cost recovery charges imposed by the three separate Charging Acts. Division 4 of Part 5 of the Act relates to cost recovery and sets out matters including what the Rules may prescribe in relation to fees for fee-bearing activities, payment of cost recovery charges, and unpaid cost recovery charges.

Item 19—Section 239

89. This item inserts, into section 239 of the Rules, new definitions of terms associated with different types of road vehicles: 'bus', 'goods vehicle' and 'passenger vehicle'. These terms are used in Part 10 of the Rules. This item also defines references in Part 10 to the different types of cost recovery regulations. Specifically, 'Imposition—Customs Regulations' means the *Road Vehicle Standards Charges (Imposition—Customs) Regulations 2021*, 'Imposition—Excise Regulations' means the *Road Vehicle Standards Charges (Imposition—Excise) Regulations 2021*, and 'Imposition—General Regulations' means the *Road Vehicle Standards Charges (Imposition—General) Regulations 2021* (together, Charging Regulations). The Charging Regulations contain specific charges in relation to buses, goods vehicles and passenger vehicles for entry on the RAV by way of the type approval pathway.

Item 20—Section 239 (definition of road vehicle type approval—non IWVTA based: bus)

90. This item replaces the definition of 'road vehicle type approval—non IWVTA based: bus' with the following: 'a road vehicle type approval (other than a road vehicle type approval—IWVTA based) that applies to a type of bus'.

Item 21—Section 239 (definition of *road vehicle type approval—non IWVTA based: goods vehicle*)

91. This item replaces the definition of ‘road vehicle type approval—non IWVTA based: goods vehicle’, with the following: ‘a road vehicle type approval (other than a road vehicle type approval—IWVTA based) that applies to a type of goods vehicle’.

Item 22—Section 239 (definition of *road vehicle type approval—non IWVTA based: passenger vehicle*)

92. This item replaces the definition of ‘road vehicle type approval—non IWVTA based: passenger vehicle’, with the following: ‘a road vehicle type approval (other than a road vehicle type approval—IWVTA based) that applies to a type of passenger vehicle’.

Item 23—At the end of Part 10

93. This item adds a new Division 15 to Part 10 of the Rules, relating to the payment of cost-recovery charges.
94. The new section 254 relates to liability and timing for payment of certain cost-recovery charges. The table set out in subsection 254(1) is divided into three columns. As set out in paragraphs 254(1)(a) and (1)(b), the person mentioned in column 2 of the table is liable to pay the charge listed in column 1, while Column 3 mentions the time that the charge is due and payable.
95. In relation to item 3 of the table set out in subsection 254(1) of the Rules, existing holders of certain approvals may ‘opt-in’ to be taken to have been granted a road vehicle type approval under items 5 or 12 of Schedule 3 to the Transitional Act. A person who ‘opts-in’ submits a form, including certain information and declarations, pays a charge, and is then taken to have been granted a road vehicle type approval.
96. The new section 254(1) note 1 clarifies that the charges mentioned in section 254 are imposed by the Charging Acts.
97. The new section 254(1) note 2 clarifies that column 3 of the table set out in subsection 254(1) will not specify when a charge is due and payable in all cases. In some cases, other provisions of the Rules will have the effect of requiring the charge to be paid at a particular time (for example, refer to sections 61, 96 and 114 of the Rules). To detail one of those examples, new subsection 61(2) of the Rules provides that a RAW approval must not come into force until after the holder of the approval has paid any outstanding charge mentioned in item 2 of the table in subsection 254(1) in relation to the first 12 month period for which the approval is expected to be in force. The person mentioned in column 2 of the table – the holder of the approval – is still liable to pay the charge in such cases.
98. The three notes at the end of the table in subsection 254(1) of the Rules are intended to provide further clarification about when particular charges are due and payable.
99. The new note 1 is relevant to the item 1 charge mentioned in the table. If an invoice specifying the time the charge is due and payable is not issued, the Secretary must not enter on the RAV the date of entry of the vehicle on the RAV until the outstanding charge has been paid, except in certain circumstances (refer to section 12A). Section 12A of the Rules, which will be inserted into the Rules by item 10 of the amending Rules, provides for a restriction on entering vehicles on the RAV before cost-recovery charges are paid.

100. The new note 2 is relevant to the charge mentioned in item 2 of the table. The approval must not come into force until after any outstanding charge has been paid for the first 12 month period for which the approval is expected to be in force (refer to sections 61, 96 and 114 of Rules).
101. The new note 3 is relevant to the charge in relation to the granting and ongoing operation of a testing facility approval (item 2 of the table). Note 2 clarifies that the charge is not payable for the first 12 month period of the approval if the application for the approval was made before 1 July 2021 (refer to subsection 8(2) of the *Road Vehicle Standards Charges (Imposition—General) Regulations 2021*).
102. Subsection 254(2) of the Rules prescribes that the person liable to pay the charge in relation to the entry of a vehicle on the RAV via the concessional RAV entry approval pathway (as prescribed by the Charging Regulations) is the holder of the concessional RAV entry approval, if the approval has been granted in respect of the vehicle. Otherwise, the applicant for the grant of the concessional RAV entry approval is liable to pay the charge.
103. Item 23 also inserts a new section 255 into the Rules, in relation to the method of payment of certain cost recovery charges. Subsection 255(a) provides that if an invoice is issued for a cost recovery charge mentioned in section 254, it will specify methods for paying the charge. Subsection 255(b) provides that if an invoice is not issued, payment of the charge can be made electronically.

Part 3—Other amendments relating to cost recovery

Item 24—Section 199

104. This item replaces section 199 of the Rules, which relates to notifying the holder of decisions relating to the approval. Section 199 is in Division 3 of Part 7 of the Rules. Division 3 deals with actions that can be taken on request by the holder of an approval.
105. Subsection 199(1) of the Rules requires the Minister or Secretary to notify the holder of the approval in writing of their decision to either vary, suspend or revoke an approval under Division 3 of Part 7 of the Rules, or change information of an administrative nature under section 197A of the Rules. The notification must occur as soon as practicable and the notification will be given by the person making the decision. Section 197A of the Rules, which will be inserted into the Rules by item 126 of the amending Rules (see below), empowers the Secretary to change administrative information associated with an approval.
106. Subsection 199(2) of the Rules outlines what information the Minister or Secretary is required to include in the notice referred to in subsection 199(1). For a decision to vary the approval, the notice must specify the amount of the fee payable under section 252 of the Rules (if any) (paragraph 199(2)(a)). (Section 252 provides for when fees are payable in relation to the variation of an approval.)
107. For a decision to suspend the approval for a specified period, the notice must specify the period for which the suspension remains in effect (paragraph 199(2)(b)).
108. For a decision to suspend the approval until a specified event occurs, the notice must specify that the suspension remains in effect until that event occurs (paragraph 199(2)(c)).
109. If the person applied under subsection 195A(1) of the Rules for a variation of administrative information, and the Secretary decided that the application was to be treated as an application for variation of an approval under subsection 195(1) of the Rules, the notice must specify that fact.

110. Section 199(3) of the Rules provides that where a fee is payable under section 252 of the Rules for the variation of an approval, the notice must also specify that the decision does not take effect until the day after any outstanding fee is paid. Where a fee is not payable under section 252 of the Rules, the notice must also specify the date on which the decision takes effect.

Item 25—After paragraph 230(zm)

111. This item inserts new paragraphs 230(zma) and (zmb) into section 230 of the Rules. Paragraph 230(zma) provides that a decision that a fee is payable under section 244 of the Rules is a decision that is reviewable by the AAT. Section 244 provides for when fees are payable in relation to the variation of an approved Model Report. Paragraph 230(zmb) provides that a decision that a fee is payable, or as to the amount of any fee payable, under section 252 of the Rules is a decision that is reviewable by the AAT. Section 252 of the Rules deals with when fees are payable in relation to the variation of approvals. These decisions should not impose an additional substantial burden on the AAT because, among other things, the relevant provisions of the Rules are clear about the basis upon which the decisions are made.

Item 26—Subsection 240(1)

112. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 240(1) of the Rules. This amendment means that fees for road vehicle type approvals, as detailed in the table in subsection 240(2), must be paid to the Secretary.

Item 27—Subsection 241(1)

113. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 241(1) of the Rules. This amendment means that fees for concessional RAV entry approvals, as detailed in the table in subsection 241(2), must be paid to the Secretary.

Item 28—Subsection 242(1)

114. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 242(1) of the Rules. This amendment means that fees for RAW approvals, as detailed in the table in subsection 242(2), must be paid to the Secretary.

Item 29—Subsection 243(1)

115. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 243(1) of the Rules. This amendment means that fees for Model Report approvals, as detailed in the table in subsection 243(2), must be paid to the Secretary.

Item 30—Subsection 244(1)

116. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 244(1) of the Rules. This change means that fees for an application for a variation to an approved Model Report, as detailed in the table in subsection 244(2), must be paid to the Secretary.

Item 31—Subsection 244(2) note

117. This item replaces the existing subsection 244(2) note. Subsection 244(2) provides that the fee for an application for a variation to an approved Model Report is due and payable at the time the application, as mentioned in column 1 of the table in subsection 244(2), is made. The new note provides that paragraph 87(2)(c) of the Rules requires an application for approval of a variation to an approved Model Report to be accompanied by the application fee, and that the

Secretary may refuse to consider the application if the person does not pay the fee (see paragraph 87(2A)(a)).

Item 32—Subsection 244(3) example

118. This item replaces ‘A’ with ‘For the purposes of subparagraph (3)(c)(iii)—a’ in the example following subsection 244(3) of the Rules. Subparagraph 244(3)(c)(iii) of the Rules provides that a fee for an application for a variation to an approved Model Report is not payable under subsection 244(1) where the person seeks the variation in response to a voluntary or compulsory recall issued in the market for which the vehicle was originally manufactured. The amendment to the terms of the example clarifies what ‘market for which the vehicle was originally manufactured’ means in subparagraph 244(3)(c)(iii).

Item 33—Subsection 245(1)

119. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 245(1) of the Rules. This change means that fees for an authorized vehicle verifier (AVV) approval application, as detailed in the table in subsection 245(2), must be paid to the Secretary.

Item 34—Subsection 246(1)

120. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 246(1) of the Rules. This amendment means that fees for testing facility approval applications, as detailed in the table in subsection 246(2), must be paid to the Secretary.

Item 35—Division 8 of Part 10 (heading)

121. This item replaces ‘register’ with ‘Register’ in the heading to Division 8 of Part 10 of the Rules. Division 8 deals with fees for an application for entry on the SEVs Register. The purpose of this amendment is to fix a typographical error.

Item 36—Section 247 (heading)

122. This item replaces ‘register’ with ‘Register’ in the heading to section 247 of the Rules. The heading, as amended, will read ‘Application for entry on SEVs Register—when fees are payable’. The purpose of this amendment is to fix a typographical error.

Item 37—Subsection 247(1)

123. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 247(1) of the Rules. This change means that fees for a variant of a model, or a make and model, of a road vehicle to be entered on the SEVs Register, as detailed in the table in subsection 247(2), must be paid to the Secretary.

Item 38—Subsection 247(2) (table item 1, column 1)

124. This item replaces ‘variant of a model, or a make and model, of a road vehicle’, with ‘make and model, or one or more variants of a model, of a road vehicle’ in column 1 of item 1 of the table in subsection 247(2) of the Rules. This amendment means that column 1 of item 1 of the table will mention a person who applies for a make and model, or one or more variants of a model, of a road vehicle to be entered on the SEVs Register. Under section 274 of the Rules, that person must pay a fee of \$230 at the time the application is made. This amendment is consistent with the amendments relating to the SEVs Register being made in Part 6 of Schedule 1 to the amending Rules.

Item 39—After Division 8 of Part 10

125. This item inserts a new Division 8A into Part 10 of the Rules, which deals with fees for transitional import approvals applications.
126. The new Division 8A contains a new section 247A of the Rules. This amendment sets out when fees are payable to the Secretary for transitional import approvals. Under subsection 247A(1), a person who applies for a transitional import approval (the person mentioned in column 1 of the table in subsection 247A(2)) must pay the Secretary \$50 (the fee mentioned in column 2 of the table.)
127. Subsection 247A(2) provides that the fee is due and payable at the time the application for a transitional import approval is made.
128. This item also inserts a new subsection 247A(2) note, which is consistent with the new subparagraph 146B(3)(b)(ii) of the Rules. As set out in that note, subparagraph 146B(3)(b)(ii) requires an application for a transitional import approval to be accompanied by the application fee. The note also mentions that the Minister may refuse to consider the application if the fee is not paid (see paragraph 146D(1)(a) of the Rules).

Item 40—Subsection 248(1)

129. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 248(1) of the Rules. This change means that the fee for a non-RAV entry import approval application, as detailed in the table in subsection 248(2), must be paid to the Secretary.

Item 41—Subsection 249(1)

130. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 249(1) of the Rules. This change means that the fee for a reimportation import approval application, as detailed in the table in subsection 249(2), must be paid to the Secretary.

Item 42—Subsection 250(1)

131. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 250(1) of the Rules. This change means that the fee for a road vehicle component type approval application, as detailed in the table in subsection 250(2), must be paid to the Secretary.

Item 43—Subsection 251(1)

132. This item replaces ‘Commonwealth’ with ‘Secretary’ in subsection 251(1) of the Rules. This change means that the fee for an application for an advisory notice, as detailed in the table in subsection 251(2), must be paid to the Secretary.

Item 44—Section 252

133. This item replaces section 252 of the Rules in full. Section 252(1) provides that the person mentioned in column 1 of the table in subsection 252(2) must pay a fee to the Secretary in accordance with column 2 of that table in relation to an application under section 195 of the Rules for the variation of an approval, where the variation would:
- change the scope of the approval, except where the variation would only reduce the scope of the approval, or
 - reduce or remove a restriction imposed by a condition to which the approval is subject.

134. The example following subsection 252(1) of the Rules clarifies subsection 252(1), and provides that a variation would change the scope of the approval (other than by reducing it) where, for instance, it added a variant to a road vehicle type approval, or allowed the holder of a testing facility approval to conduct an additional kind of testing that is not covered by the existing approval.
135. A new subsection 252(1) note provides that the fee is not due and payable on any specific date. However, the variation decision will not take effect until the fee is paid (see subsection 199(3) of the Rules).
136. New subsection 252(2) provides that no fee is payable if the application for variation is refused. New subsection 252(3) provides that where the Minister or Secretary decides to vary an approval in terms other than those requested by the holder of the approval, the fee payable is the fee applicable to the variation granted (and not the variation sought). New subsection 252(4) provides that a decision as to whether a fee is payable, or the amount of the fee that is payable, is to be made by the Secretary.
137. By way of clarification, the new subsection 252(4) note mentions that no fee would be payable if the type of variation sought would not fall within the scope of paragraph 252(1)(a) or (b) of the Rules. These paragraphs refer to a variation that would change the scope of the approval, except where the variation would only reduce the scope of the approval (paragraph (a)), or a variation that would reduce or remove a restriction imposed by a condition to which the approval is subject (paragraph (b)).
138. As set out in paragraph 230(zmb) of the Rules, an application can be made to the AAT for review of a decision under section 252 of the Rules that a fee is payable, or as to the amount of any fee payable.

Item 45—Amendments of listed provisions—light trailer

139. This item substitutes multiple references to ‘light trailer’ with ‘aggregate trailer mass of 4.5 tonnes or less’ throughout section 239, and in item 8 of the table in subsection 240(2) of the Rules. This change is intended to distinguish this category of trailers from definitions for ‘light trailers’ and ‘heavy trailers’ contained in the Australian Design Rules (ADRs).

Item 46—Amendments of listed provisions—heavy trailer

140. This item substitutes various references to ‘heavy trailer’ with ‘aggregate trailer mass of more than 4.5 tonnes’ throughout section 239, and in items 6 and 7 of the table in subsection 240(2) of the Rules. This change is intended to distinguish this category of trailers from definitions for ‘light trailers’ and ‘heavy trailers’ contained in the ADRs.

Part 4—Amendments relating to Model Reports

Item 47—After paragraph 68(2)(b)

141. This item inserts a new paragraph after paragraph 68(2)(b) of the Rules. With the addition of new paragraph 68(2)(ba) an application for approval of a Model Report must also be accompanied by a copy of the Model Report for which approval is sought. This copy is to be set out in a manner that complies with a determination under subsection 88(1) of the Rules. The purpose of this amendment, along with the amendment to paragraph 70(a) of the Rules (see item 48 below), is to clarify the requirements for an application for approval of a Model Report.

Item 48—Paragraph 70(a)

142. This item replaces paragraph 70(a) of the Rules in full. Under the new paragraph 70(a), the Secretary may refuse to consider an application for approval of a Model Report if ‘the applicant does not comply with subsection 68(2)’. The purpose of this amendment is to remove any ambiguity in the previous wording, which referred to compliance ‘with the requirements of this instrument’.

Item 49—Section 70 (notes)

143. This item replaces the notes following section 70 in full. The new note explains the requirements of subsection 68(2) of the Rules, which include that the application for approval of a Model Report be in the approved form and be accompanied by the application fee.

Item 50—Section 72

144. This item replaces section 72 of the Rules in full. The new subsection 72(1) sets out the eligibility criterion relating to a Model Report for a model, or one or more variants, or a road vehicle covered by an entry on the SEVs Register. The eligibility criterion is that a vehicle of the relevant model or variant would, if modified or manufactured in accordance with the Model Report, meet the requirements of subsection 72(2).
145. Subsection 72(2) of the Rules provides that where a determination is made by the Minister under subsection 89(2) which applies to the vehicle, the requirements are that either the vehicle complies with the standards set out in that determination, as in force the time the Model Report is approved, or satisfies subsection 76(1) (regarding substantial compliance with the standards determined under subsection 89(2)). In addition, the vehicle must comply with the applicable national road vehicle standards or satisfy subsection 76(2) of the Rules (regarding substantial compliance with national road vehicle standards). The three notes following subsection 72(2) outline the requirements of the other provisions referred to in subsection 72(2).

Item 51—Subparagraph 73(2)(b)(i)

146. This item omits the words ‘as in force at the time the Model Report is approved’ from subparagraph 73(2)(b)(i) of the Rules. Subsection 73(1) sets out the eligibility criterion relating to a Model Report that applies to a model, or one or more variants, or a used two-wheeled vehicle or used three-wheeled vehicle that is not entered on the SEVs Register. The eligibility criterion is that a vehicle of the relevant model or variant would, if modified or manufactured in accordance with the Model Report, meet the requirements of subsection 72(3). The effect of the amendment is that subparagraph 73(2)(b)(i) of the Rules refers to a vehicle that complies with the applicable national road vehicle standards.

Item 52—Section 73 (note)

147. This item replaces the note following section 73 of the Rules with two new notes to clarify the operation of the provisions referred to in section 73. The first note explains that subsections 76(1) and (2) of the Rules relate to substantial compliance with standards determined under subsection 89(2) of the Rules and the national road vehicle standards. The second note explains that the determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

Item 53—Subparagraph 75(2)(b)(i)

148. This item omits the words ‘as in force at the time the Model Report is approved’ from subparagraph 75(2)(b)(i) of the Rules. Subsection 75(1) sets out the eligibility criterion for a Model Report that applies to a model, or one or more variants, or a road vehicle entered on the RAV via the type approval pathway that will be subject to second stage of manufacture. The eligibility criterion is that a vehicle of the relevant model or variant would, if modified or manufactured in accordance with the Model Report, meet the requirements of subsection 75(2). The effect of the amendment is that subparagraph 75(2)(b)(i) of the Rules will refer to a vehicle that complies with the applicable national road vehicle standards.

Item 54—Section 75 (note)

149. This item replaces the note following section 75 with two new notes to clarify the operation of the provisions referred to in section 75. The first note explains that subsections 76(1) and (2) of the Rules relate to substantial compliance with standards determined under subsection 89(2) of the Rules and the national road vehicle standards. The second note explains that the determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

Item 55—Paragraph 76(2)(a)

150. This item replaces paragraph 76(2)(a) of the Rules in full. Subsection 76(2) relates to substantial compliance with national road vehicle standards. A road vehicle satisfies subsection 76(2) in the circumstances set out in either paragraphs 76(2)(a) or 76(2)(b). New paragraph 76(2)(a) applies to a vehicle mentioned in section 74 of the Rules (a trailer with an aggregate trailer mass of more than 4.5 tonnes), and provides that the vehicle substantially complies with the applicable national road vehicle standards as in force at the time the Model Report is approved. New paragraph 76(2)(b) applies to other vehicles, and provides that the vehicle substantially complies with the applicable national road vehicle standards.

Item 56—At the end of subsection 76(2)

151. This item adds a new note at the end of subsection 76(2) of the Rules. Subsection 76(2) deals with when substantial compliance with the national road vehicle standards is permitted. The new note explains the provisions of the subsection. It states that that the determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards. However, a determination under section 89 cannot be made in relation to a model, or one or more variants, of a vehicle mentioned in section 74 (a trailer with an aggregate trailer mass of more than 4.5 tonnes).

Item 57—Paragraph 79(2)(d)

152. This item replaces the subparagraph references in paragraph 79(2)(d) of the Rules with ‘subparagraph 72(2)(a)(ii), 73(2)(a)(ii) or 75(2)(a)(ii)’. This is in line with the amendment made to section 72 of the Rules by item 50 of the amending Rules.

Item 58—Paragraph 79(2)(e)

153. This item replaces the subparagraph reference in paragraph 79(2)(e) of the Rules with ‘subparagraph 72(2)(b)(ii), subparagraph 73(2)(b)(ii)’. This is in line with the amendment made to section 72 of the Rules by item 50 of the amending Rules.

Item 59—Subsection 82(3)

154. This item replaces subsection 82(3) of the Rules in full. Under subsection 82(1), it is a condition of the approval of a Model Report that, where, relevantly, subsection 82(3) applies, the holder of the approval must, as soon as practicable, notify the Secretary of the matter in subsection 82(3), and either apply to the Secretary under section 87 for approval of a variation to the Model Report in order to rectify that matter, or request the Secretary, under section 198, to suspend or revoke the approval.
155. New subsection 82(3) of the Rules applies where the holder of the approval of a Model Report for a model, or one or more variants, of a road vehicle covered by an entry on the SEVs Register becomes aware, or should have become aware, that the vehicle of the relevant model or variant would not, if manufactured or modified in accordance with the Model Report, comply as referred to in paragraph 82(3)(a) or (b) of the Rules.
156. New paragraph 82(3)(a) relates to a Model Report approved on the basis of the matter in subparagraph 72(2)(a)(i) or (b)(i), and covers a road vehicle of the relevant model or variant that complies with the applicable standards determined by the Minister under subsection 89(2) as in force at the time of the modification or manufacture.
157. New paragraph 82(3)(b) relates to a Model Report approved on the basis of the matter in subparagraph 72(2)(a)(ii) or (b)(ii), and covers a road vehicle that satisfies the requirements of subsection 82(7) or (8), as applicable.
158. The first paragraph 82(3)(b) note explains that subsection 82(7) and (8) of the Rules deal with substantial compliance with the standards determined by the Minister under subsection 89(2) and the national road vehicle standards.
159. The second paragraph 82(3)(b) note explains that the determination made under subsection 89(2) of the Rules may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

Item 60—Paragraph 82(4)(a)

160. This item replaces paragraph 82(4)(a) of the Rules in full. Under subsection 82(1), it is a condition of the approval of a Model Report that, where, relevantly, subsection 82(4) applies, the holder of the approval must, as soon as practicable, notify the Secretary of the matter in subsection 82(4), and either apply to the Secretary under section 87 for approval of a variation to the Model Report in order to rectify that matter, or request the Secretary, under section 198, to suspend or revoke the approval.
161. Subsection 82(4) of the Rules applies where the holder of the approval of a Model Report for a model, or one or more variants, of a used two-wheeled vehicle or used three-wheeled vehicle that is not entered on the SEVs Register becomes aware, or should have become aware, that a vehicle of the relevant model or variant would not, if modified or manufactured in accordance with the Model Report, comply as referred to in paragraph 84(2)(a) of the Rules.
162. The new paragraph 82(4)(a) of the Rules applies to a Model Report approved on the basis of the matter in subparagraph 73(2)(a)(i) or (b)(i), and refers to a vehicle of the relevant model or variant that complies with either the applicable standards determined by the Minister under subsection 89(2) as in force at the time of the modification or manufacture, or the applicable national road vehicle standards, as ascertained at the time of the modification or manufacture.

Item 61—Subsection 82(4) (note)

163. This item replaces the subsection 82(4) note with two new notes, which explain subsection 82(4) of the Rules. The first note explains that subsection 82(7) and (8) deal with substantial compliance with the standards determined by the Minister under subsection 89(2) and the national road vehicle standards. The second note explains that the determination made under subsection 89(2) of the Rules may set out how to ascertain which national road vehicle standards are the applicable road vehicle standards.

Item 62—Paragraph 82(6)(a)

164. This item replaces paragraph 82(6)(a) of the Rules in full. Under subsection 82(1), it is a condition of the approval of a Model Report that, where, relevantly, subsection 82(6) applies, the holder of the approval must, as soon as practicable, notify the Secretary of the matter in subsection 82(6), and either apply to the Secretary under section 87 for approval of a variation to the Model Report in order to rectify that matter, or request the Secretary, under section 198, to suspend or revoke the approval.
165. Subsection 82(6) of the Rules applies where the holder of the approval of a Model Report for a model, or one or more variants, of a road vehicle entered on the RAV via the type approval pathway that will be subject to second stage of manufacture becomes aware, or should have become aware, that a vehicle of the relevant model or variant would not, if modified or manufactured in accordance with the Model Report, comply as referred to in paragraph 82(6)(a) of the Rules.
166. The new paragraph 82(6)(a) of the Rules applies to a Model Report approved on the basis of the matter in subparagraph 75(2)(a)(i) or (b)(i), and refers to a vehicle of the relevant model or variant that complies with the applicable standards determined by the Minister under subsection 89(2) as in force at the time of the modification or manufacture, or the applicable national road vehicle standards, as ascertained at the time of the modification or manufacture.

Item 63—Subsection 82(6) (note)

167. This item replaces the note following subsection 82(6) with two new notes, which explain subsection 82(6) of the Rules. The first note explains that subsection 82(7) and (8) deal with substantial compliance with the standards determined by the Minister under subsection 89(2) and the national road vehicle standards. The second note explains that the determination made under subsection 89(2) may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards.

Item 64—Paragraph 82(8)(a)

168. This item replaces paragraph 82(8)(a) of the Rules in full. Subsection 82(8) deals with substantial compliance with the national road vehicle standards. A road vehicle satisfies subsection 82(8) in the circumstances set out in paragraphs 82(8)(a) and 82(8)(b). New paragraph 82(8)(a) applies where the vehicle substantially complies with either the applicable national road vehicle standards as in force at the time the vehicle is modified or manufactured (for a vehicle mentioned in section 74 – a trailer with an aggregate trailer mass of more than 4.5 tonnes), and, for other vehicles, the applicable national road vehicle standards, as ascertained at the time the vehicle is modified or manufactured.

Item 65—Subsection 82(8) (note)

169. This item omits ‘as in force at the time the report was approved’ from the note following subsection 82(8) of the Rules. This is in line with the amendments explained above.

Item 66—Paragraph 87(2)(b)

170. This item replaces paragraph 87(2)(b) of the Rules with two new paragraphs. The new paragraphs set out that applications for variation of an approved Model Report must include such documents as are required by the form. An application must also be accompanied by a copy of the Model Report that incorporates, and clearly indicates, the variation sought, and that is set out in a manner that complies with a determination under subsection 88(1). The purpose of this inclusion is to clarify the application requirements.

Item 67—After subsection 87(2)

171. This item inserts a new subsection 87(2A) into the Rules. The new subsection empowers the Secretary to refuse to consider an application for approval of a variation to a Model Report if the application does not comply with subsection (2) or the applicant does not comply with a request made under subsection 69(1) within the period mentioned in paragraph 69(2)(b). The purpose of this amendment is to clearly provide a power for the Secretary to refuse to consider an application for a variation to a Model Report in these circumstances.
172. As set out in paragraph 230(m) of the Rules, an application can be made to the AAT for review of a decision under subsection 87(2A) of the Rules to refuse to consider an application to approve a variation to a Model Report.

Item 68—Subsection 87(3)

173. This item replaces the reference to ‘Sections 69 to 80’ in subsection 87(3) of the Rules with a reference to ‘Section 69, and sections 71 to 80’. This effect of this amendment is that section 69, and sections 71 to 80, of the Rules apply in relation to an application under subsection 87(1) for approval of a variation to a Model Report as if the application were for approval of a new Model Report.

Item 69—Paragraphs 89(2)(b) and (c)

174. This item replaces paragraphs 89(2)(b) and (c) of the Rules in full. The new paragraphs set out two of the types of matters that the Minister may determine by legislative instrument under subsection 89(2). These are matters relating to the material to be taken into account by the Secretary when deciding an application for approval of a Model Report. This includes by: (i) specifying the kinds of material that the Secretary may or must consider; and, (ii) specifying limits on the kinds of material that the Secretary may consider; and, (iii) specifying that the Secretary can only be satisfied that a Model Report satisfies an eligibility criterion set out in section 72, 73 or 75 on the basis of certain kinds of material. The determination may also set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards in respect of a vehicle of a model or variant mentioned in subsection 89(1). Subsection 89(1) mentions a road vehicle of a model or variant in relation to which a Model Report may be approved, other than a trailer with an aggregate trailer mass of more than 4.5 tonnes.

Item 70—Paragraph 89(3)(a)

175. This item replaces ‘vehicles comply’ with ‘vehicles would comply’ in paragraph 89(3)(a) of the Rules. The effect of this amendment is that under paragraph 89(3)(a), and without limiting subsection 89(2), a determination made for the purposes of section 89 of the Rules may provide that the Secretary may only be satisfied that the vehicles would comply, or substantially comply, with an applicable national road vehicle standard or standard determined under paragraph 89(2)(a) of the Rules on the basis of testing conducted under a

testing facility approval, or conducted by a person who holds a testing facility approval but did not at the time the testing was conducted.

Item 71—After paragraph 89(3)(b)

176. This item inserts two new paragraphs after paragraph 89(3)(b) of the Rules. The new paragraphs explain what a determination made for the purposes of section 89 can do. These paragraphs provide that a determination may set out a method for determining which version of a national road vehicle standard applies to a vehicle (paragraph 89(3)(c)), and set out concessional requirements relating to testing evidence (paragraph 89(3)(d)).

Item 72—Paragraph 206(6)(c)

177. This item replaces paragraph 206(6)(c) of the Rules in full. Section 206 relates to the compulsory recall of road vehicles or approved road vehicle components. The new paragraph 206(6)(c) sets out one of the circumstances in which subsection 206(6) applies, which relates to modified vehicles that do not comply with certain standards. Under paragraph 206(6)(c), subsection 206(6) applies where it appears to the Minister that the relevant vehicle does not, or it is likely that it does not, comply to the relevant extent with either the applicable standards determined under subsection 89(2), as in force at the time the vehicle was manufactured or modified in accordance with the Model Report, or the applicable national road vehicle standards, as in force at the time of the manufacture or modification (for a vehicle mentioned in section 74), or the applicable national road vehicle standards, as ascertained at the time of the manufacture or modification (for other vehicles).
178. The new paragraph 206(6)(c) note explains that the determination made under subsection 89(2) of the Rules may set out how to ascertain which national road vehicle standards are the applicable national road vehicle standards. This flows from the amendment to the determination-making power in subsection 89(2) with respect to ascertaining which national road vehicle standards are the applicable national road vehicle standards. The note also explains that a determination under section 89 cannot be made in relation to a model (or one of more variants) of a vehicle mentioned in section 74 (a trailer with an aggregate trailer mass of more than 4.5 tonnes).

Item 73—Paragraph 225(1)(b)

179. This item replaces paragraph 225(1)(b) of the Rules in full and adds six new paragraphs to subsection 225(1). Subsection 225(1) sets out the information that the Secretary must publish on the Department's website for each approval of a Model Report that is in force. Subsection 225(1) is expressed to be subject to subsection 225(2). New paragraph 225(1)(b) covers the name and contact details of the holder of the approval. The new details in paragraphs 225(1)(c) to (g) are: the approval number and approval status of the Model Report; the unique document identifier of each set of Work Instructions in the relevant version of the Model Report; the eligibility criterion on the basis of which the Model Report was approved; the compliance level on the basis of which the Model Report was approved; and, such additional information about the model, variant or variants of road vehicle to which the Model Report applies as the Secretary considers appropriate to publish.

Item 74—Subsection 225(2)

180. This item replaces 'approval-holder's contact details' with 'their name and contact details'. This is in line with the amendment to paragraph 225(1)(b). The effect of this amendment is that subsection 225(2) will apply if the holder of the approval asks the Secretary not to publish their name and contact details on the Department's website. If this subsection applies,

then, among other things, the name and contact details of the holder of the approval must not be published on the Department's website.

Item 75—Paragraph 225(2)(b)

181. This item replaces paragraph 225(2)(b) of the Rules in full. Paragraph 225(2)(b) now sets out that if the holder of the approval asks the Secretary not to publish their name and contact details on the Department's website, then the Secretary must remove the information from the website if the Secretary has already published the information on the website.

Item 76—At the end of section 225

182. This item adds a new subsection 225(3) and 225(4) at the end of section 225 of the Rules. Section 225 deals with publication requirements in relation to approved Model Reports.
183. New subsection 225(3) explains that 'approval status' refers to whether the Model Report is approved, suspended or revoked ('approval status' is an expression used in new paragraph 225(1)(c) of the Rules).
184. New subsection 225(4) explains what 'compliance level' refers to (an expression used in new paragraph 225(1)(f) of the Rules). Firstly, it refers to the extent to which a model, or one or more variants, of a road vehicle would, if manufactured or modified in accordance with the Model Report, comply with the applicable national road vehicle standards or applicable standards determined under subsection 89(2) (paragraph 225(4)(a)). Secondly, it refers to what the Secretary considers to be the respects in which, or the extent to which (if any), it is acceptable for road vehicles manufactured or modified in accordance with the Model Report not to comply with those standards (paragraph 225(4)(b)). Thirdly, it refers to what the Secretary considers to be the key respects in which road vehicles manufactured or modified in accordance with the Model Report are not required to comply with the national road vehicle standards by virtue of a determination under subsection 89(2) (paragraph 225(4)(c)).
185. The note following subsection 225(4) is relevant to paragraph 225(4)(b), and provides that information referred to in that subsection will also be set out in the approval (see paragraphs 79(2)(d) and (e) of the Rules).
186. The example following subsection 225(4) is relevant to paragraph 224(4)(c). It states that the determination under subsection 89(2) might prescribe that certain vehicles do not need to undergo destructive testing in accordance with a particular national road vehicle standard, and that the Secretary might consider this a key concession.

Part 5—Amendments relating to AVVs

Item 77—Paragraph 65(3)(a)

187. This item replaces the words 'damage, corrosion, and repair of damage or corrosion' in paragraph 65(3)(a) of the Rules with 'damage or corrosion, and repair of damage or corrosion'. This amendment ensures consistency with other provisions of the Rules that refer to 'damage or corrosion, and repair of damage or corrosion'.

Item 78—Paragraph 65(4)(b)

188. This item inserts the words 'or repair of damage or corrosion' after 'level of damage or corrosion' in paragraph 65(4)(b) of the Rules. This amendment ensures consistency with other provisions of the Rules that refer to 'damage or corrosion, and repair of damage or corrosion', and clarifies that where there is an inspection for damage or corrosion, there must also be an inspection for repair of damage or corrosion (see paragraph 65(3)(a)).

Item 79—Paragraph 65(5) note

189. This item replaces the subsection 65(5) note in full. The new note explains the operation of section 65(5) of the Rules, and provides that the holder of an AVV approval must not verify a road vehicle, or modifications of a road vehicle, unless satisfied that the level of any damage or corrosion, or repair of damage or corrosion, on the vehicle does not exceed the damage or corrosion limit determined under section 107. The note also provides that if no damage or corrosion limit has been determined, the holder of the approval must not verify the vehicle or modifications unless satisfied that the vehicle's structural integrity has not been reduced by damage or corrosion (see subparagraphs 100(1)(b)(ii) to (iii)).

Item 80—Subparagraph 91(1)(b)(i)

190. This item replaces the word 'inspected' in subparagraph 91(1)(b)(i) of the Rules with 'verified'. This amendment clarifies that the verification of a road vehicle under an AVV approval is broader than the physical inspection of the vehicle.

Item 81—Paragraph 100(1)(b)

191. This item replaces 'inspected the vehicle' with 'completed the inspections and examined the information (if any) that it is required to complete or examine by a determination under section 106,'. Section 100 of the Rules provides for a condition of an AVV approval that is about the conduct of verifications. This amendment clarifies that verification of a road vehicle, or modifications of a road vehicle, under an AVV approval is broader than the physical inspection of the vehicle.

Item 82—Subparagraph 100(1)(b)(ii)

192. This item inserts the words 'or repair of damage or corrosion' after 'level of damage or corrosion' in subparagraph 100(1)(b)(ii) of the Rules. This amendment provides consistency with other provisions of the Rules that refer to 'damage or corrosion, and repair of damage or corrosion'.

Item 83—After section 100

193. This item inserts a new section 100A of the Rules. This section provides that it is a condition of an AVV approval that the holder of the approval comply with the requirements of a determination under section 106. The condition would be breached if, for example, the AVV failed to inspect the vehicle in accordance with the relevant steps, failed to use the tools required (or maintain/calibrate them properly), or failed to report a relevant matter.

Item 84—Section 101

194. This item replaces section 101 of the Rules in full. The new section 101 provides that it is a condition of an AVV approval that the holder of the approval ensure that all verifications carried out under the approval are performed by appropriately skilled staff, and take place in Australia. Following on from the new section 100A, the new section 101 no longer includes a reference to the holder of the approval maintaining the technology, equipment and procedures used to inspect road vehicles in accordance with the requirements set out in a determination made by the Minister under section 106. Instead, under the new section 100A, the holder of an AVV approval is required to comply with requirements of a determination under section 106.

Item 85—After subparagraph 103(a)(ii)

195. This item adds a new subparagraph 103(a)(iii) to the Rules. Section 103 provides for a condition of an AVV approval that is about record keeping. Under the new subparagraph 103(a)(iii), it is a condition of an AVV approval that the holder of the approval must, after conducting a verification of a road vehicle or modifications of a road vehicle under the approval, retain a record of any information that the holder of the approval is required to keep by a determination under section 106, or a copy of such a record.

Item 86—Paragraph 104(b)

196. This item replaces the word ‘inspected’ in paragraph 104(b) of the Rules with ‘presented for verification’. Section 104 of the Rules provides for a condition of an AVV approval that is about providing information etc. to the Secretary or an inspector. This amendment clarifies that the verification of a road vehicle under an AVV approval is broader than the physical inspection of the vehicle.

Item 87—Subparagraph 104(c)(i)

197. This item replaces the word ‘inspected’ in subparagraph 104(c)(i) of the Rules with ‘verified’. This amendment clarifies that the verification of a road vehicle under an AVV approval is broader than the physical inspection of the vehicle.

Item 88—Subparagraph 104(c)(iii)

198. This item replaces the word ‘inspected’ in subparagraph 104(c)(iii) of the Rules with ‘verified’. This amendment clarifies that the verification of a road vehicle under an AVV approval is broader than the physical inspection of the vehicle.

Item 89—Section 106

199. This item replaces section 106 of the Rules in full. New section 106 empowers the Minister to determine matters relating to the verification of road vehicles by a corporation as an AVV. New elements include paragraph 106(2)(b), which provides that a determination may relate to the circumstances, or limits on the circumstances, in which the holder of an AVV approval must or may be satisfied that the signed declaration mentioned in paragraph 65(2)(a) of the Rules is true and accurate. Paragraph 106(2)(c) has also been included so the determination may relate to the kinds of supporting material, or limits on the kinds of supporting material, that the holder of an AVV approval may rely on or take into account when determining whether to verify a road vehicle under the approval.

Item 90—Section 107

200. This item replaces section 107 of the Rules in full. The new section 107 empowers the Minister to determine the extent or types of damage or corrosion, or repair of damage or corrosion, that will not prevent the holder of an AVV approval from verifying a road vehicle, or modifications of a road vehicle, under the approval. This is known as the ‘damage or corrosion limit’. Previously there was no mention made of the extent or types of repair of damage or corrosion.
201. Two new section 107 notes explains how a determination under section 107 of the Rules is relevant to other provisions of the Rules.
202. The first section 107 note provides that if the Minister determines a limit under section 107, the holder of an AVV approval must not verify a road vehicle, or modifications to a road

vehicle, unless satisfied that the level of any damage or corrosion, or repair of damage or corrosion, on the vehicle does not exceed that limit (see subparagraph 100(1)(b)(ii)).

203. The second section 107 note provides that under subsection 65(3) of the Rules, the holder of a RAW approval must notify the Secretary, and must not continue to work on a vehicle or declare that it has been modified in accordance with an approved Model Report, if the vehicle, upon inspection, is found to have a level of damage or corrosion, or repair of damage or corrosion, that exceeds any damage or corrosion limit determined under section 107.

Part 6—Amendments relating to the SEVs Register

Item 91—Section 4

204. This item replaces the sentence about variants in the paragraph about Division 6 of Part 4 in the simplified outline of the Rules (section 4). Division 6 provides for the keeping of the SEVs Register. The new sentence will read: ‘A person may apply to the Secretary for a make and model, or one or more variants of a model, of a road vehicle to be entered on the SEVs Register’. This amendment enables a person to submit a single SEVs Register entry application for more than one variant of a make and model of a road vehicle, instead of having to submit separate applications for each variant.

Item 92—Section 53

205. This item amends section 53 of the Rules by replacing the sentences about variants in the simplified outline of Part 4 of the Rules in that section. The new sentences make clear that either the make and model, or one or more variants of a model, of a road vehicle may be entered on the SEVs Register if, among other things, the make and model, or each relevant variant, satisfies the criterion for one of the following features: performance, environmental, mobility, left-hand drive, campervans and motorhomes or rarity at sections 130 to 135.
206. The simplified outline now also explains that, as a transitional measure, Division 6 of Part 4 also permits certain makes and models, or variants of models, of road vehicles on the ‘SEVs List’ maintained by the Department to be entered on the SEVs Register.

Item 93—subsection 125(1)

207. This item replaces subsection 125(1) of the Rules in full and adds new subsections 125(1A) and 125(1B). New subsection 125(1) provides that a person may apply to the Secretary for a make and model, or one of more variants of a model, of a road vehicle to be entered on the SEVs Register.
208. The subsection 125(1) note directs readers to the meaning of ‘variant’ in section 128 of the Rules.
209. New subsection 125(1A) of the Rules provides that an application for entry on the SEVs Register on the basis of subsection 129(1) of the Rules must not relate to more than one of the eligibility criteria in section 130 to 135. Section 129(1) deals with eligibility for entry on the SEVs Register.
210. To assist in understanding how new subsection 125(1A) of the Rules operates, this subsection is followed by two new examples. The first example provides that a person cannot make a single application for one variant of a model of a road vehicle to be entered on the SEVs Register on the basis of the performance criterion, and another to be entered on the basis of the rarity criterion. However, the person could make two separate applications for two variants.

211. The second example provides that a person cannot make a single application for a make and model of a road vehicle to be entered on the SEVs Register on the basis of both the performance criterion and the rarity criterion. However, if the Secretary is satisfied that the model is eligible for entry on the SEVs Register under a different eligibility criterion to the one identified in the application, the model may still be entered on the SEVs Register on the basis of the criterion under which it is eligible (section 138).
212. The note that follows mentions that when deciding an application made on the basis of subsection 129(4) of the Rules, the Secretary does not need to determine whether a make and model, or variant of a model, of a road vehicle meets one of the eligibility criteria in sections 130 to 135.
213. New subsection 125(1B) of the Rules provides that an application may relate to entry on the SEVs Register on the basis of subsection 129(1) or 129(4) of the Rules, but not both.
214. The subsection 125(1B) note mentions that subsection 129(1) of the Rules is the main basis for entry on the SEVs Register and that subsection 129(4) provides a more limited transitional basis for entry. In relation to the new subsection 125(1B), the note mentions that a single application for entry on the SEVs Register cannot rely on both of these bases for entry. However, the person could make two separate applications.

Item 94—subsection 126(1)

215. This item replaces ‘variant of a model, or a make and model, of a road vehicle’ with ‘make and model, or one of more variants of a model, of a road vehicle’ in subsection 126(1) of the Rules. Section 126(1) of the Rules empowers the Secretary to request further information from a person who has made an application for entry on the SEVs Register. The effect of this amendment is that subsection 126(1) of the Rules will provide that to assist in deciding whether to enter a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register, the Secretary may request the applicant to provide further specified information. This amendment is in line with other amendments made to the Rules by Part 6 of the amending Rules.

Item 95—Paragraph 128(3)(a)

216. This item removes the word ‘capacity’ from paragraph 128(3)(a) of the Rules. Section 128 of the Rules provides for when road vehicles of a particular kind constitute a variant of a model of a road vehicle.
217. Subsection 128(1) provides that, subject to subsection 128(2), road vehicles of a particular kind constitute a variant of a model of a road vehicle if their design characteristics are significantly different from those of other vehicles of that model of road vehicle. The new paragraph 128(3)(a) provides that, without limiting subsection 128(1), differences in the configuration or induction of an internal combustion engine of road vehicles with a gross vehicle mass of 12 tonnes or less are significant for the purposes of subsection 128(1). The removal of the word ‘capacity’ from this paragraph resolves any anomaly that may occur with paragraph 128(3)(g) of the Rules. Paragraph 128(3)(g) provides that, without limiting subsection 128(1), difference in design characteristics of road vehicles with a gross vehicle mass of 12 tonnes or less, where those characteristics are of a kind set out in a determination under subsection 136(1), are significant for the purposes of subsection 128(1).

Item 96—Section 129

218. This item replaces section 129 of the Rules in full. Section 129 relates to eligibility for entry on the SEVs Register. Under subsection 129(1), a variant of a model, or a make and model, of a road vehicle is eligible for entry on the SEVs Register if the Secretary is satisfied that: the variant of the model, or the make and model, has not been made available to consumers in Australia, at any time, under a road vehicle type approval or an approval given under subsection 10A(1) or (2) of the MSVA, or has been made available to consumers in Australia and section 129A of the Rules applies; and, at least 3 months have passed since the variant of the model, or the make and model, was first made available to a consumer in any market in the world; and, the variant of the model, or the make and model, satisfies one of the performance, environmental, mobility, left-hand drive, campervans and motorhomes, or rarity criteria.
219. The subsection 129(1) note refers the reader to subsection 129(3) of the Rules for when a variant of a model, or a make and model, of a road vehicle has been made available to consumers in Australia.
220. Subsection 129(2) of the Rules makes provision for multiple variants, which the Secretary may consider globally. The subsection provides that where a person applies for more than one variant of a model of a road vehicle to be entered on the SEVs Register, the Secretary may be satisfied that each variant meets the criteria in subsection 129(1) of the Rules on the basis of evidence that all variants covered by the application meet those criteria.
221. The example following subsection 129(2) of the rules illustrates how that subsection may operate. It refers to a person who applies for entry on the SEVs Register of all V8-engined variants of a particular model of a road vehicle. Because of subsection 129(2), the person can provide evidence demonstrating that all of the V8 variants meet the requirements in subsection 129(1) of the Rules, without performing specific variant-by-variant analysis. The Secretary may then make a global assessment of whether all of the variants covered by the application meet the relevant criteria.
222. The subsection 129(2) note makes reference to the fact that section 138 of the Rules also affects how the eligibility criteria apply where a person seeks entry of more than one variant on the SEVs Register. Section 138 deals with when the Secretary may make or refuse to make an entry on the SEVs Register.
223. Subsection 129(3) of the Rules explains when a variant or model is available to consumers in Australia. It clarifies that a variant of a model, or a make and model, of a road vehicle will have been made available to consumers in Australia at a particular time if such consumers had the opportunity to purchase a vehicle of the variant or model, even if no such vehicles had been physically delivered to consumers in Australia at that time.
224. Subsection 129(3) of the Rules would be satisfied if the manufacturer etc. gave consumers in Australia an opportunity to secure a legal entitlement to receive the vehicle (regardless of the precise form the arrangement took). The opportunity to purchase would clearly consist of paying the purchase price outright. Subsection 129(3) of the Rules would also be satisfied where the manufacturer etc offers an arrangement under which consumers in Australia, upon paying a deposit, will secure a legal entitlement to receive the vehicle subject to paying the balance of the purchase price and meeting any other contractual conditions. Even if the payment of the deposit does not amount to a purchase in itself, in offering an arrangement of this latter kind, the manufacturer etc will have offered consumers the opportunity to purchase the vehicle by means of that arrangement.

225. In order to support transitional arrangements, subsection 129(4) of the Rules makes provision for vehicles on the SEVs List to be entered on the SEVs Register. Subsection 129(4) provides that a variant of a model, or a make and model, is eligible for entry on the SEVs Register if the Secretary is satisfied that the variant, or make and model, was entered on the SEVs List before the commencement of section 15 of the Act, and is not otherwise eligible for entry on the SEVs Register, and the application for entry on the SEVs Register is made during the transitional period, being no later than 12 months after the commencement of section 15 of the Act.
226. A definition of ‘SEVs List’ is provided in subsection 129(5) of the Rules. It is the list, administered by the Department, of variants of models, and makes and models, of road vehicles that have been assessed as suitable for entry on the SEVs Register on an interim basis.
227. The note following subsection 129(5) of the Rules assists with understanding the operation of these provisions. It mentions that an entry on the SEVs List will identify which of the criteria in sections 130 to 135 the vehicle was assessed against in order to determine its suitability for interim entry. However, the Secretary does not need to determine whether a make and model, or variant of a model, of a road vehicle meets one of those criteria when considering its eligibility under subsection 129(4) of the Rules.

Item 97—After section 129

228. This item inserts a new section 129A of the Rules, regarding the entry on the SEVs Register of vehicles that have been made available to consumers in Australia. It also inserts a new section 129B regarding references to approvals under the MVSA in sections 129 or 129A of the Rules.
229. New section 129A replicates subsections of old 129A with amendments to align with the new approach to variants. Section 129A is relevant to the operation of subparagraph 129(1)(a)(ii) of the Rules. That subparagraph provides that a variant of a model, or a make and model, of a road vehicle is eligible for entry on the SEVs Register if the Secretary is satisfied that a variant of the model has been made available to consumers in Australia and section 129A applies. New subsection 129A(1) applies where the type approval holder applies for entry on the SEVs Register, new subsection 129A(2) applies to vehicles available to consumers outside, but not in, Australia, and new subsection 129A(3) applies to vehicles made available under certain MVSA approvals but not yet made available under a road vehicle type approval.
230. New section 129B of the Rules largely replicates what was previously subsection 129(6). This new section provides that a reference in section 129A or 129A to an approval given under subsection 10A(1) or (2) of the MVSA includes an approval given under those subsections that continues, or is taken to continue, in force under the Transitional Act (paragraph 129(6)(a)), and an approval given under those subsections that has ceased to be in force (whether before or after the repeal of the MVSA) (paragraph 129(6)(b)).
231. The section 129(6) note relates to paragraph 126(6)(a) of the Rules, and refers the reader to item 4 of Schedule 3 to the Transitional Act.

Item 98—Subsection 130(1)

232. This item replaces subsection 130(1) of the Rules in full, which provides for the performance criterion. The new subsection uses the language of ‘a variant of a model, or a make and model’. As amended, new subsection 130(1) provides that a variant of a model, or a make

and model, of a road vehicle satisfies the performance criterion if the variant, or the make and model, as originally manufactured, has a power to weight ratio that exceeds the threshold in subsection 130(2) of the Rules. This amendment to the performance criterion is to reflect that the eligibility for entry of a make and model of a road vehicle on the SEVs Register is now possible under all 6 criteria in Division 6 of Part 4 of the Rules.

Item 99—After subsection 130(2)

233. The item inserts new subsection 103(2A) and 103(2B) into the Rules, to provide a power to weight threshold for particular vehicles. Where a variant of a model, or a make and model, of a road vehicle was originally manufactured across a period beginning before 1 January 2020 and finishing on or after 1 January 2020 (see subsection 103(2A)), subsection 103(2B) provides that vehicles of the variant of the model, or the make and model, that were originally manufactured on or after 1 January 2020 need only exceed the power to weight threshold specified in paragraph 130(2)(a) of the Rules. The power to weight threshold specified in paragraph 130(2)(a) is 110 kilowatts per tonne.

Item 100—Section 131

234. This item replaces section 131 of the Rules in full, which provides for the environmental criterion. The new section uses the language of ‘a variant of a model, or a make and model’. This amendment to the environmental criterion is to reflect that the eligibility for entry of a make and model of a road vehicle on the SEVs Register is now possible under all 6 criteria in Division 6 of Part 4 of the Rules.

Item 101—Section 132

235. This item replaces section 132 of the Rules in full, which provides for the mobility criterion. The new section uses the language of ‘a variant of a model, or a make and model’. This amendment to the mobility criterion is to reflect that the eligibility for entry of a make and model of a vehicle on the SEVs Register is now possible under all 6 criteria in Division 6 of Part 4 of the Rules. New subparagraph 132(b)(ii) has also been amended to refer to modifications that were sponsored or supported by the original manufacturer of the road vehicle ‘subject to the modification’.

Item 102—Section 133

236. This item replaces section 133 of the Rules in full, together with the note that follows. Section 133 provides for the left-hand drive criterion. The new section uses the new language of ‘a variant of a model, or a make and model’. This amendment to the left-hand drive criterion is to reflect that the eligibility for entry of a make and model of a vehicle on the SEVs Register is now possible under all 6 criteria in Division 6 of Part 4 of the Rules.

Item 103—Section 134

237. This item replaces section 134 of the Rules in full, together with the note that follows. Section 134 provides for the campervans and motorhomes criterion. The new section uses the language of ‘a variant of a model, or a make and model’. This amendment to the campervans and motorhomes criterion is to reflect that the eligibility for entry of a make and model of a vehicle on the SEVs Register is now possible under all 6 criteria in Division 6 of Part 4 of the Rules.

Item 104—Section 136

238. This item replaces section 136 of the Rules in full. Section 136 empowers the Minister to determine matters relating to any aspect of sections 128 to 135 of the Rules. Sections 128 to 135 relate to applications for entry of road vehicles on the SEVs Register. In particular, sections 130 to 135 are the eligibility criteria. Previously the power was expressed to relate to ‘the criteria’ in sections 128 to 135, which was an oversight given sections 128 and 129 do not contain criteria. A new subparagraph 136(2)(h) has also been included to clarify that, for the purposes of the campervans and motorhomes criterion (section 134 of the Rules), the determination may prescribe road vehicles that are, or are not, campervans or motorhomes, and prescribe factors relevant to determining whether a road vehicle is a campervan or motorhome.

Item 105—Section 137 (heading)

239. This item replaces ‘considering’ in the heading to section 137 of the Rules with ‘deciding’. As amended, section 137 deals with the timeframe for deciding applications. This amendment achieves consistency with other sections of the Rules that refer to deciding, rather than considering, applications.

Item 106—Subsection 137(1)

240. This item replaces ‘considering’ in subsection 137(1) of the Rules with ‘deciding’. This amendment achieves consistency with other sections of the Rules that refer to deciding, rather than considering, applications.

Item 107—Subsection 137(1)

241. This item replaces ‘variant of a model, or a make and model, of a road vehicle’ with ‘make and model, or one of more variants of a model, of a road vehicle’ in subsection 137(1) of the Rules. This is in line with the other amendments to the Rules made by Part 6 of Schedule 1 to the amending Rules.

Item 108—Section 138

242. This item replaces section 138 of the Rules in full. Section 138 sets out when the Secretary may make or refuse to make an entry on the SEVs Register. Subsection 138(1) sets out when the Secretary may make an entry on the SEVs Register. Subsection 138(2) sets out when certain entries take effect. Subsection 138(3) requires the Secretary to refuse to enter a variant, or make and model, on the SEVs Register if it is ineligible. Subsection 138(4) clarifies that the Secretary may grant an entry based on an eligibility criterion that is different to the application. Subsection 138(5) provides that, where a person applies for more than one variant of a model of a road vehicle to be entered on the SEVs Register, the ineligibility of some variants does not disqualify the remainder. Finally, subsection 138(6) deals with the matters that the Secretary may take into account when deciding an application for entry on the SEVs Register.
243. The new section adopts the new language of ‘make and model, or one of more variants of a model, of a road vehicle’, and headings for each subsection of section 138 have been included. The new subsection 138(4) had been added given that a person can now apply for more than one variant of a model of a road vehicle to be entered on the SEVs Register. The new subsection 138(6) largely reflects the terms of what was previously subsection 138(4).

244. As set out in paragraph 230(v) of the Rules, an application can be made to the AAT for review of a decision under section 138 of the Rules to refuse to enter a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register.

Item 109—Section 139

245. This item replaces section 139 of the Rules in full. Section 139 sets out the notice requirements for entry on the SEVs Register. Subsection 139(1) provides that if the Secretary enters a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register, the Secretary must, as soon as practicable, notify the applicant, in writing, of the entry. Subsection 139(2) sets out the circumstances in which the Secretary must notify the applicant, in writing, that a model or variant of a road vehicle is already entered on the SEVs Register.
246. The new section 139 largely replicates the previous section 139 of the Rules. The new section adopts the new language of ‘make and model, or one of more variants of a model, of a road vehicle’.

Item 110—Section 140

247. This item replaces ‘variant of a model, or a make and model, of a road vehicle’ with ‘make and model, or one of more variants of a model, of a road vehicle’ in section 140 of the Rules. Section 140 deals with notice requirements if the Secretary decide to refuse to make an entry on the SEVs Register. This is in line with the other amendments to the Rules made by Part 6 of Schedule 1 to the amending Rules.

Item 111—Section 142 (note)

248. This item replaces the note that follows section 142 of the Rules. Section 142 deals with the correction of errors on the SEVs Register, and provides that if the Secretary is satisfied that an error exists in an entry on the SEVs Register, the Secretary may vary or remove the entry for the purpose of correcting the error. The note explains that an error in an entry on the SEVs Register may exist for a variety of reasons, including as a result of an error in the information originally provided in the application. An error in an entry may also exist because new information becomes available about the extent to which a relevant variant, or make and model, complies with the applicable criteria. The amendment tightens up the language in relation to the example regarding new information becoming available.

Item 112—Section 143

249. This item replaces section 143 of the Rules in full. Section 143 deals with the expiry of entries on the SEVs Register. New section 143 adopts the new language of ‘make and model, or one of more variants of a model, of a road vehicle’, and includes a clarification regarding the applicable period for vehicles entered on the SEVs Register on the basis of the transitional arrangements in subsection 129(4) of the Rules (in which case the entry expires at the end of the period of 3 years starting on the date of entry on the SEVs List). In other cases, the entry expires at the end of the period of 3 years starting on the day the entry on the SEVs Register is made.
250. The new section 143 note provides that after expiry, the make and model, or the variant or variants of the model, of the road vehicle may be re-entered on the SEVs Register if the Secretary approves a new application made under subsection 125(1).

Item 113—Paragraph 230(u)

251. This item replaces ‘variant of a model, or a make and model, of a road vehicle’ with ‘make and model, or one of more variants of a model, of a road vehicle’ in paragraph 230(u) of the Rules. Paragraph 230(u), as amended, provides that an application may be made to the AAT for review of a decision to refuse to consider an application relating to the entry of a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register. This amendment is in line with the other changes in Part 6 of Schedule 1 to the amending Rules.

Item 114—Paragraph 230(v)

252. This item replaces ‘variant of a model, or a make and model, of a road vehicle’ with ‘make and model, or one of more variants of a model, of a road vehicle’ in paragraph 230(v) of the Rules. Paragraph 230(v), as amended, provides that an application may be made to the AAT for review of a decision to refuse to enter a make and model, or one or more variants of a model, of a road vehicle on the SEVs Register. This amendment in line with the other changes in Part 6 of Schedule 1 to the amending Rules.

Part 7—Miscellaneous amendments

Item 115—paragraph 23(2)(d)

253. This item inserts ‘reference numbers of the’ before ‘documents’ in paragraph 23(2)(d) of the Rules. Paragraph 23 deals with notice requirements for the grant of a road vehicle type approval, and the amended paragraph 23(2)(d) provides that this approval must specify the national road vehicle standards applicable to the type of vehicle and the reference numbers of the documents mentioned in subsection 19(2) that demonstrate that vehicles of that type comply with those standards. Subsection 19(2) of the Rules mentions documents that the Secretary may take into account as part of the criteria for deciding an application for a road vehicle type approval.

Item 116—At the end of section 26

254. This item inserts a new subsection 26(4) into the Rules, which is a new condition of a road vehicle type approval. The new condition provides that the holder of the approval must not give instructions, for the purposes of paragraph 51(e) of the Rules, that would result in a vehicle covered by the approval ceasing to comply with the applicable national road vehicle standards as in force at the time the Secretary granted the approval, except in the respects or to the extent (if any) that vehicles of that type are not required to comply with those standards in order to be entered on the RAV under the approval. Section 51(e) of the Rules is a new provision that is explained below in relation to item 118 of the Rules.
255. The subsection 26(4) note mentions that the notice for the grant of the approval will specify the respects in which, or the extent to which, vehicles of the relevant type are not required to comply with the applicable national road vehicle standards in order to be entered on the RAV (see paragraph 23(2)(e) of the Rules). This is relevant to a type of vehicle to which subsection 19(3) of the Rules (substantial compliance) applies.

Item 117—subsection 50(1)

256. This item replaces ‘subsection (2), (3), (4) or (5) applies’ with ‘any of subsections (2) to (6) apply’ in subsection 50(1) of the Rules. Subsection 50(1) prescribes the circumstances in which a road vehicle may be provided. Subsection 50(1) now includes a reference to subsection 50(6) of the Rules. This means that, under subsection 50(1), a person is permitted

to provide a road vehicle if, at the time of the provision, any of subsections 50(2) to (6) apply. Subsection 50(6) of the Rules is inserted into the Rules by item 119 of the amending Rules.

Item 118—Paragraph 51(d) and note

257. This item replaces paragraph 51(d) of the Rules and the following note with new subsection 51(d) and (e) of the Rules, as well as two new notes. Section 51 of the Rules provides for the modifications that are allowed for the purposes of paragraph 26(1)(e) and (2)(g) of the Rules.
258. New paragraph 51(d) prescribes modifications carried out in accordance with the National Code of Practice Heavy Vehicle Modifications, as in force in the State or Territory in which the vehicle was modified at the time the modifications were made. This new paragraph is in the same terms as the previous paragraph 51(d).
259. New paragraph 51(e) of the Rules prescribes modifications carried out on a road vehicle that is entered on the RAV via the type approval pathway, where the modifications are not covered by the supporting information for the relevant road vehicle type approval, and are made in accordance with written instructions provided by the holder of the approval.
260. The new paragraph 51(e) note 1 is in the same terms as the previous note following paragraph 51(d) of the Rules.
261. The new paragraph 51(e) note 2 mentions, for the purposes of new paragraph 51(e) of the rules, that it is a condition of a road vehicle type approval that the holder of the approval cannot give instructions that, broadly speaking, would detrimentally affect the extent to which a relevant vehicle complies with the national road vehicle standards.

Item 119—At the end of section 50

262. This item adds a new subsection 50(6) to the Rules. The new subsection prescribes circumstances in which a road vehicle may be provided. New subsection 50(6) applies where the provision of the road vehicle is expressly or impliedly permitted or required by the Rules, or a condition of an approval under the Rules.
263. To assist in understanding how new subsection 50(6) of the Rules operates, new subsection 50(6) of the Rules is followed by two new examples. The first example relates to a situation where it is a condition of a concessional RAV entry approval granted on the basis of the eligibility criterion in section 37 of the Rules that a road vehicle to which the approval applies must not be entered on the RAV until the holder of a RAW approval has modified or manufactured the vehicle in accordance with an approved Model Report, and the holder of an AVV approval has verified the vehicle or modifications. The example provides that the vehicle can be provided to the holder of those approvals and their staff for the purpose of enabling them to carry out the relevant modification, manufacture or verification without breaching subsection 24(1) of the Act. Subsection 24(1) deals with providing a road vehicle for the first time in Australia where the vehicle is not on the RAV.
264. The second example relates to a situation where the holder of a testing facility approval granted under Division 5 of Part 4 of the Rules is authorised to test vehicles under the approval. The example provides that a vehicle can be provided to the holder of the approval or their staff for the purpose of enabling them to carry out testing under the approval without breaching subsection 24(1) of the Act.
265. In the circumstances covered by these examples, provision of the road vehicle for these purposes is expressly or impliedly permitted or required by the Rules, or a condition of an approval granted under the Rules.

Item 120—Section 147 (heading)

266. This item removes the words ‘for approval’ from the heading to section 147 of the Rules. Section 147 enables a person to apply for the grant of a non-RAV entry import approval. The amendment has been made to make the heading consistent with headings to other like sections in divisions of Part 5 of the Rules.

Item 121—Section 156 (heading)

267. This item replaces ‘non RAV’ with ‘non-RAV’ in the heading to section 156 of the Rules. Section 156 deals with notice requirements for the grant of a non-RAV entry import approval. The amendment has been made to make the words of the heading consistent with references to ‘non-RAV’ in other headings in Division 3 of Part 5 of the Rules.

Item 122—Section 167 (heading)

268. This item removes the word ‘of’ from the heading to section 167 of the Rules, to correct a typographical error. Section 167 of the Rules deals with notice requirements for a refusal to grant a reimportation import approval.

Item 123—Paragraph 181(2)(d)

269. This item inserts ‘reference numbers of the’ before ‘documents’ in paragraph 181(2)(d) of the Rules. Paragraph 181(2)(d) deals with notice requirements for the grant of a road vehicle component type approval. The amended paragraph 181(2)(d) provides that this approval must specify the national road vehicle standards applicable to the type of road vehicle component to which the approval applies and the reference numbers of the documents mentioned in subsection 177(2) of the Rules that demonstrate that road vehicle components of that type comply with those standards. Subsection 177(2) of the Rules mentions documents that the Secretary may take into account as part of the criteria for deciding an application for a road vehicle component type approval.

Item 124—Paragraph 195(3)(b)

270. This item replaces paragraph 195(3)(b) of the Rules with a new paragraph. The paragraph sets out what an application for variation of an approval must be accompanied by. New paragraph 195(3)(b) requires the application to be accompanied by such documents as are required by the form.

Item 125—After section 195

271. This item adds a new section 195A to the Rules. Subsection 195A(1) provides that the holder of an approval granted under the Rules may apply to the Secretary to change information of an administrative nature associated with the approval. The example that follows provides that such information would include the applicant’s contact details. Subsection 195A(2) sets out that the application must be in the approved form and accompanied by such documents as are required by the form. The subsection 195A(3) note mentions that the same form may be approved for an application under subsection 195(1) (that is, an application for variation of an approval). Subsection 195A(3) provides that the Secretary may refuse to consider an application if it does not comply with subsection 195A(2).
272. As set out in paragraph 230(zga) of the Rules, an application can be made to the AAT for review of a decision under subsection 195A(3) of the Rules to refuse to consider an application by the holder of an approval to change information of an administrative nature associated with an approval.

Item 126—Subsection 196(1)

273. This item replaces the words ‘the application’ with ‘an application under subsection 195(1) or 195A(1)’ in subsection 196(1) of the Rules. Section 196 of the Rules enables the Minister or Secretary to seek further information about an application for variation of an approval, or an application to change information of an administrative nature associated with an approval. This amendment is necessary given the addition of section 195A (see above).

Item 127—Subsection 197(4) (note)

274. This item replaces ‘in a terms than those’ with ‘in terms other than those’ in the note following subsection 197(4) of the Rules. Subsection 197(4) of the Rules provides that the Minister or Secretary may vary an approval in terms other than those requested by the holder of the approval. As amended, the subsection 197(4) note provides that a decision to vary an approval in terms other than those requested by the holder of the approval is reviewable by the AAT (and references section 230 of the Rules). The purpose of this amendment is to fix a typographical error.

Item 128—After section 197

275. This item adds a new section 197A to the Rules. New subsection 197A(1) provides that the Secretary may change information of an administrative nature associated with an approval on the application of the holder of the approval. However, this is only the case if the Secretary is satisfied that doing so would not amount to a variation of the approval. Where the Secretary is satisfied that changing the information would amount to a variation of the approval, subsection 197A(2) provides that the application is to be treated as though it were an application for variation of an approval under subsection 195(1) of the Rules.
276. A decision under subsection 197A(2) of the Rules to treat an application to change administrative information associated with an approval as an application for variation of an approval under subsection 195(1) of the Rules is not subject to independent merits review by the AAT. This is because a decision of this kind is a preliminary or procedural decision that leads to the making of a substantive decision, such as a decision to vary an approval under section 197 of the Rules.
277. The subsection 197A(2) note mentions that no application fee applies to an application under subsection 195A(1) of the Rules (that is, an application to change information of an administrative nature associated with the approval). However, an application fee may apply to an application under subsection 195(1) (that is, an application for variation of an approval).

Item 129—Subsection 227(2)

278. This item replaces the words ‘the approval-holder’s business name and contact details’ with the words ‘their name and contact details’ in subsection 227(2) of the Rules. As amended, subsection 227(2) provides that if the holder of a testing facility approval that is in force asks the Secretary not to publish their name and contact details on the Department’s website, then the publishing requirement does not apply, and the Secretary must remove the information from the website if the Secretary has already published the information on the website. This amendment makes the language of subsection 227(2) consistent with that of subsection 227(1) of the Rules.

Item 130—After paragraph 230(zg)

279. The item adds a new paragraph 230(zga) to the Rules after paragraph 230(zg). The new section 230(zga) of the Rules provides that an application may be made to the AAT for

review of a decision to refuse to consider an application by the holder of an approval to change information of an administrative nature associated with the approval. The inclusion of this new reviewable decision flows through from the addition of section 197A of the Rules (see above).

Item 131—After section 230

280. This item adds a new section 230A to the Rules. New subsection 230A(1) provides that a person who applies for an approval under the Rules may withdraw the application by written notice. Subsection 230A(2) provides that the Minister or Secretary must not decide an application that has been withdrawn. Subsection 230A(3) provides that a fee paid for an application that is withdrawn is not refundable where the Minister or Secretary had begun to consider the application before receiving the notice of withdrawal. The subsection 230A(3) note explains that under section 72 of the Act, the Secretary may refund the whole or part of a cost-recovery charge paid to the Commonwealth if the Secretary is satisfied there are circumstances that justify doing so.